

89-1252

Supreme Court, U.S.

FILED

FEB 2 1990

JOSEPH F. SPANIOLO, JR.
CLERK

IN THE SUPREME COURT OF UNITED STATES

October Term 1989

GENE BASALYGA,

CITIZENS TO SAVE STATE HOSPITAL,

VICKI WITTENBREDER, and

ALL OTHERS SIMILARLY SITUATED, Petitioners,

VS

COMMONWEALTH OF PENNSYLVANIA,

JOHN F. WHITE, and

ROBERT BROWN, Respondents.

PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF PENNSYLVANIA

CITIZENS TO SAVE
STATE HOSPITAL,
P. O. Box 172,
Peckville, Penn.
18452

GENE BASALYGA,
P. O. Box 172,
Peckville, Penn. 18452

VICKI WITTENBREDER,
RD Box Number 296,
Route 4,
Lake Ariel, Penn. 18436

DATE: 2-1-90

8400

QUESTIONS PRESENTED

1. Whether the courts below (Commonwealth Court of Penn., and the Supreme Court of Penn.,) abused their discretion and thereby deprive petitioners of their,

a. First Amendment access to courts,

"the right of people...to petition the Government for a redress of grievances."

b. Sixth Amendment right,

"to have the assistance of counsel"

c. Fourteenth Amendment right,

"to life, liberty, or property, without due process of law; nor deny to any person...the equal Protection of the laws."

d. Pa.R.App.P.105, the right to relief from the breakdown in the process of the Supreme Court of Pa.

LIST OF PARTIES

Deletion: Alexander M. Munchak, M.D.,
is not included as a party because he died
on 11-7-89.

TABLE OF CONTENTS

QUESTIONS PRESENTED	i
LIST OF PARTIES	ii
OPINIONS BELOW	2
JURISDICTION	2
CONSTITUTION INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	10
CONCLUSION	11
APPENDIX	

INDEX OF EXHIBITS-RIDER A

TABLE OF AUTHORITIES

	Page
U. S. CONSTITUTION	
First Amendment	1, 3
Sixth Amendment	1, 3
Fourteenth Amendment	1, 3, 10
STATUTE	
Sherman Anti Trust Act	6
Pa.R.A.P. 105	1, 3, 9, 10

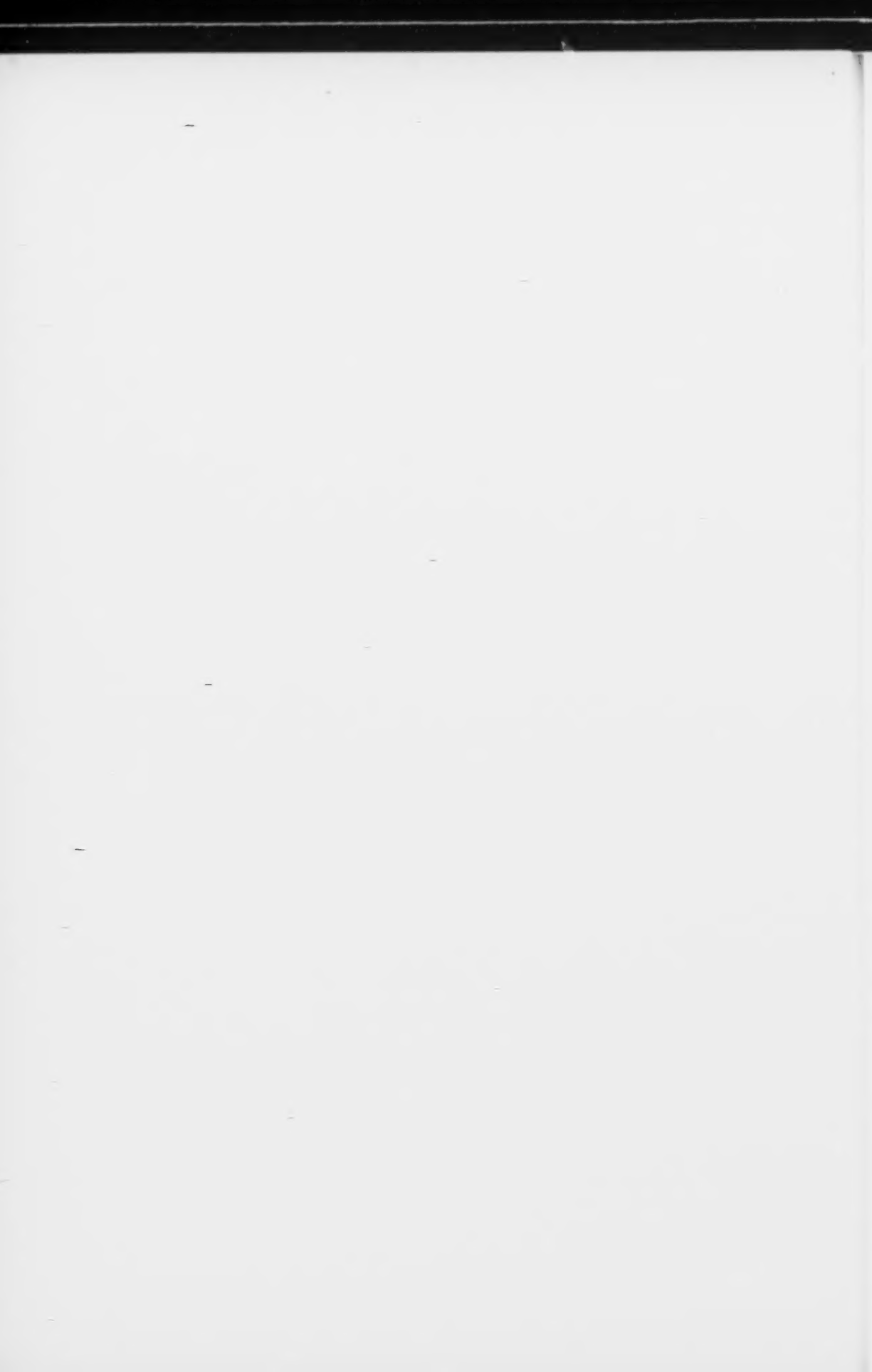
IN THE SUPREME COURT OF UNITED STATES

October Term 1989

GENE BASALYGA,
CITIZENS TO SAVE STATE HOSPITAL,
VICKI WITTENBREDER, and
ALL OTHERS SIMILARLY SITUATED, Petitioners
vs
COMMONWEALTH OF PENNSYLVANIA
JOHN WHITE, and
ROBERT BROWN, Respondents.

PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF PENNSYLVANIA

Petitioners respectfully pray that a writ of certiorari issue to review the orders filed 9-6-89 which denied Applications for Reargument by the Supreme Court of Pennsylvania regarding Nos. 17, 18 and 20,



M. D. Appeal Docket 1989; and that a writ of certiorari issue to review the order filed 10-10-89 which denied Application For Reargument by the Supreme Court of Pennsylvania regarding No. 30, M.D. Appeal Docket 1989.

OPINION BELOW

On 1-26-89 the Commonwealth Court rendered its only Opinion (a copy of which is hereto attached as EXHIBIT A) together with its Order (a copy of which is hereto attached as EXHIBIT B).

No opinion was rendered by the Supreme Court of Pennsylvania.

JURISDICTION

On 9-6-89, Applications For Reargument regarding Nos. 17, 18, and 20, M.D. Appeal Docket 1989, were denied by the Supreme Court of Pennsylvania.

On 10-10-89, Application For Reargument



to closely related No. 30 M.D. Appeal Docket 1989, was also denied by the Supreme Court of Pennsylvania.

On 12-29-89, Associate Justice William J. Brennan, Jr., issued an ORDER extending the time to 2-2-90 to file petitions for writs of certiorari herein.

U. S. CONSTITUTION INVOLVED

First Amendment

"To petition the Government
for a redress of grievances"

Sixth Amendment

"...to have assistance of Counsel..."

Fourteenth Amendment

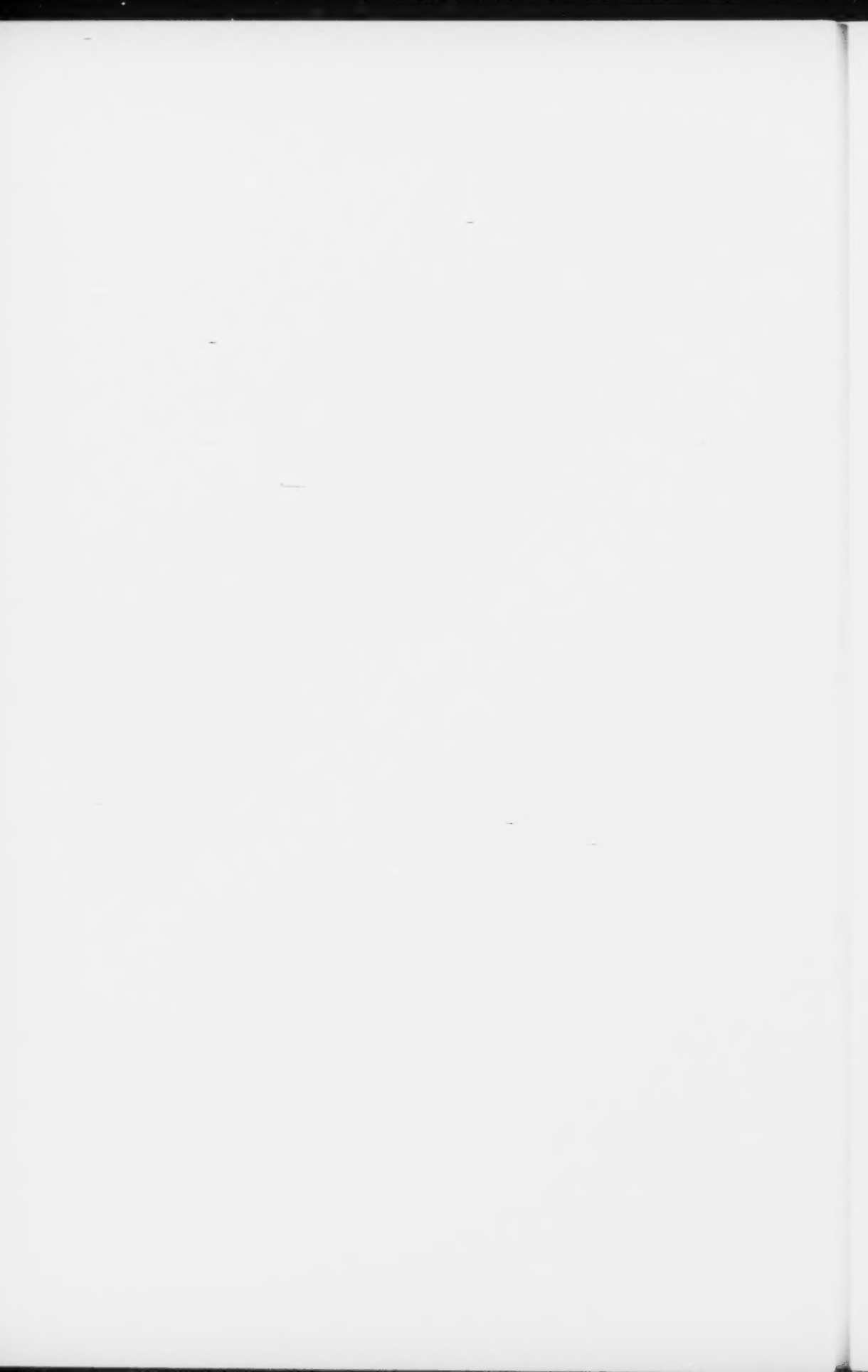
"nor shall any State deprive any person
of life, liberty or property without
due process of law...nor deny...the
equal protection of the laws."

PENNSYLVANIA RULES OF COURT INVOLVED

Breakdown in the process of a court.

The Official Note to Pa.R.App.P. 105

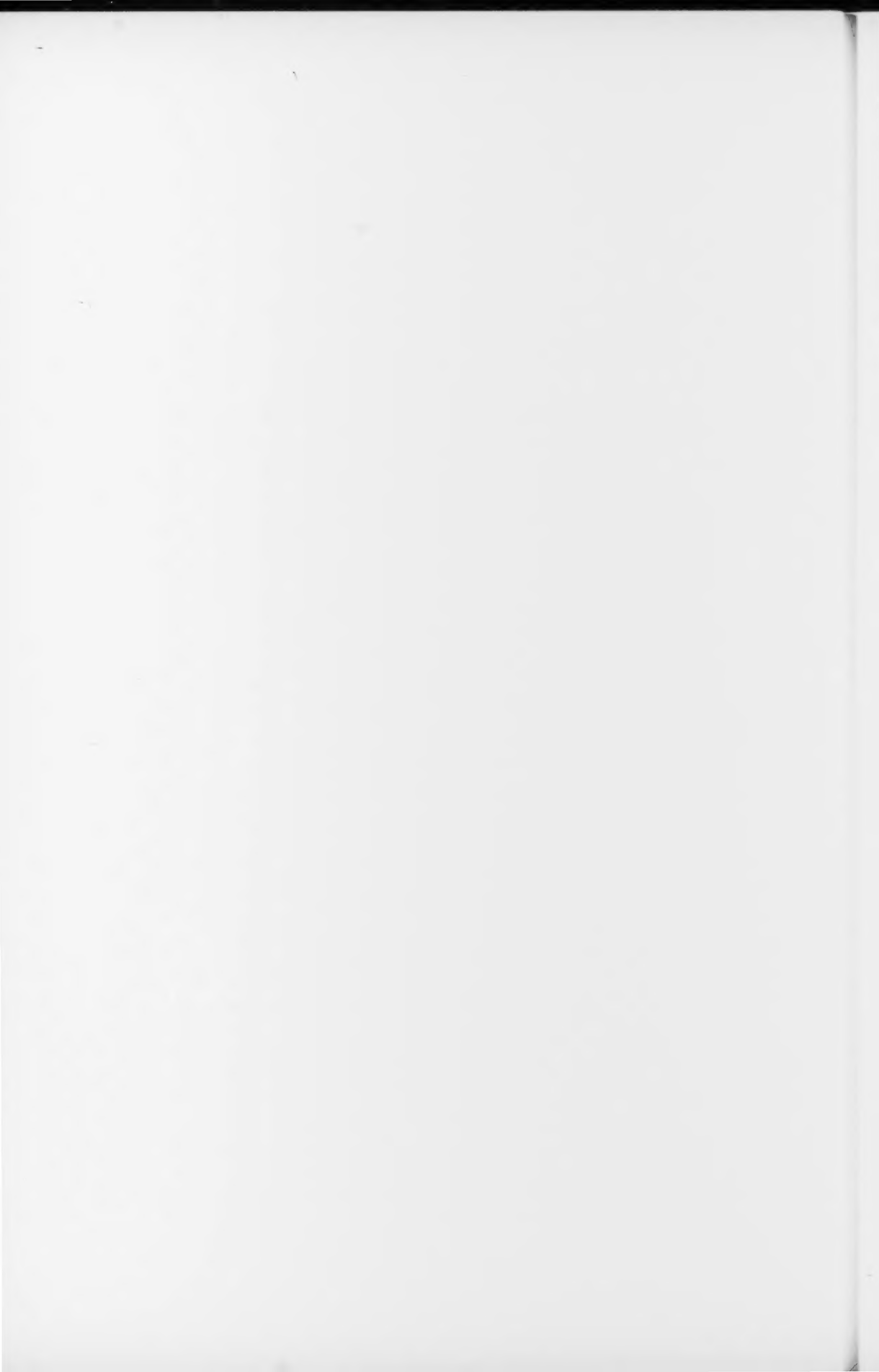
"makes it clear that (appellate)
courts retain the power to grant relief
in the case of breakdown in the process
of a court."



STATEMENT OF THE CASE

A cursory inspection of the "RIDER" hereto attached demonstrates that petitioners have been wrongfully denied access to the Commonwealth Court and to the Supreme Court of Pennsylvania for a redress of grievances.

Central in the instant litigation is the unlawful conspiracy by respondents and others such as the Community Medical Center (CMC), to "sell" the beautiful, historic, 6-story, red brick masonry building, Scranton State General Hospital (SSGH), for the incredible total sum of ONE DOLLAR (\$1.00) to CMC, to unjustly enrich it, by unconscionably victimizing the Commonwealth, we the people. Petitioners demanded a copy of the DEED, but none was produced. Incidentally, before SSGH was SOLD, hundreds of thousands of dollars worth of improvements were made to the Hospital at the expense of the Commonwealth.



SSGH is worth over \$50 million.

In Scranton, Lackawanna and adjacent Counties, is a great critical shortage, a crying and dying need for hospital beds. Patients in hospitals in those Counties are overcrowded. They are placed in beds in hospital halls and elsewhere. Others cannot be admitted because there is even a lack of hall space. Other very ill persons are put on a hospital waiting list. Because of the existence of this condition, many ill persons suffer and die at home for lack of a hospital bed and hospital care.

Petitioners vigorously opposed the ONE DOLLAR (\$1.00) SALE, several years ago. For that reason the SALE was eventually abandoned but only after causing petitioners enormous time and expense.

Because of that opposition by petitioners, respondents regrouped and resorted to the shell game of attempting to effectuate the fraud by producing a long term LEASE



for ONE DOLLAR (\$1.00) per year, with a renewal clause. Petitioners demanded to see the lease and obtain a copy of it, to no avail.

Meanwhile, all SSGH personnel received pink slips, discharge notices based on that LEASE and were told to apply to CMC for their same respective positions on the premises of SSGH.

Petitioners vigorously fought this second phase of the ongoing fraud. For that reason the "LEASE" was abandoned.

Again, respondents have regrouped and are now engaged in the third phase of the fraud.

PHASE THREE. Respondents have engaged in a predatory campaign, and in flagrant violation of the Sherman Anti Trust Act, they discouraged patients and revenue by devious, open and notorious methods by discouraging patients from being admitted; and by forcing patients with terroristic



bomb threats who had been admitted, to be discharged. Verification of these facts are contained in the record of the courts below, undisputed.

As a result of those machinations, respondents closed SSGH on the false premise that SSGH is not needed, that the patient count was low (and non-existent after the terroristic discharges); and on the false premise that there is an excess of Hospital beds.

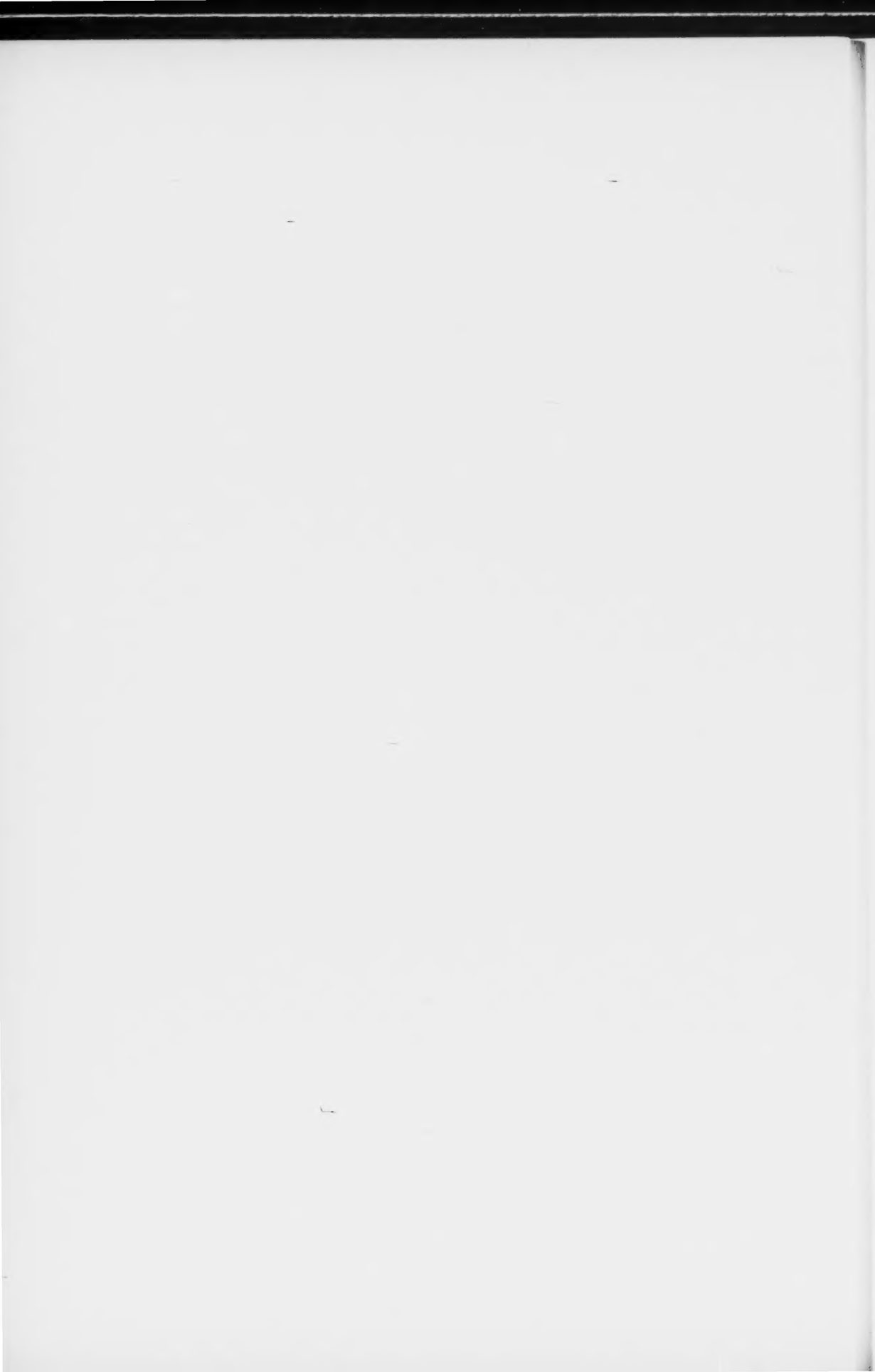
The 178 HOSPITAL BED ALLOTMENT owned by SSGH is a most valuable asset. It tends to avoid a monopoly of Hospital beds and unconscionable astronomical Hospital rates. According to many people who had been patients in SSGH and other hospitals in this greater metropolitan area, declared that SSGH was the best with excellent care and reasonable rates.

While the predatory PHASE THREE was in process, respondents testified in the



. Commonwealth Court, contrary to fact, that there is an excess of hospital beds and gave that as a reason why SSGH should be closed. Then, respondents officially published in the Pennsylvania Bulletin that there is a 178 hospital bed shortage in this area. It is significant to note that, approximately at the same time, CMC filed with respondents a CERTIFICATE OF NEED certifying that a critical shortage of hospital beds exists, requesting that the hospital bed allotment (owned by SSGH) be awarded to it, to CMC.

Petitioners were deprived of counsel. Attorney Ronald Oley had been retained by petitioners. Among other things, he inexcusably and repeatedly misinformed petitioners of pertinent material facts, which gravely prejudiced them. Then he filed an erroneous petition to the Supreme Court of Pennsylvania to relieve him of his duties and to discharge him. Petitioners filed a proper answer to it, which answer



the Supreme Court of Pennsylvania Deputy Prothonotary, Mildred Williamson, inexcusably failed to include in the court record until after the courts permitted him to withdraw, and without a hearing, to the grave prejudice of petitioners. The Commonwealth Court also summarily removed him without a hearing predicated on the removal by the Supreme Court of Pa. Petitioners requested those courts to remedy that prejudice which they overlooked.

Petitioners promptly complained to the Supreme Court of Pennsylvania of the,

BREAKDOWN IN THE COURT PROCESS.

The court denied relief. It denied Petitioners' Motion For Reconsideration.

RE: Pa.R.App.P. 105. The Official Note to Rule 105 (b) "makes it clear that (appellate) courts retain the power to grant relief in the case of fraud or breakdown in the processes of a court." (Citations omitted)

Present status of SSGH: It was closed by respondents and they have targeted it for demolition, to the grave detriment of



petitioners.

The foregoing salient facts, set forth with specificity, show inter alia that petitioners are deprived of due process and equal protection of the laws secured by Amendment 14 (1) of the U.S. Constitution.

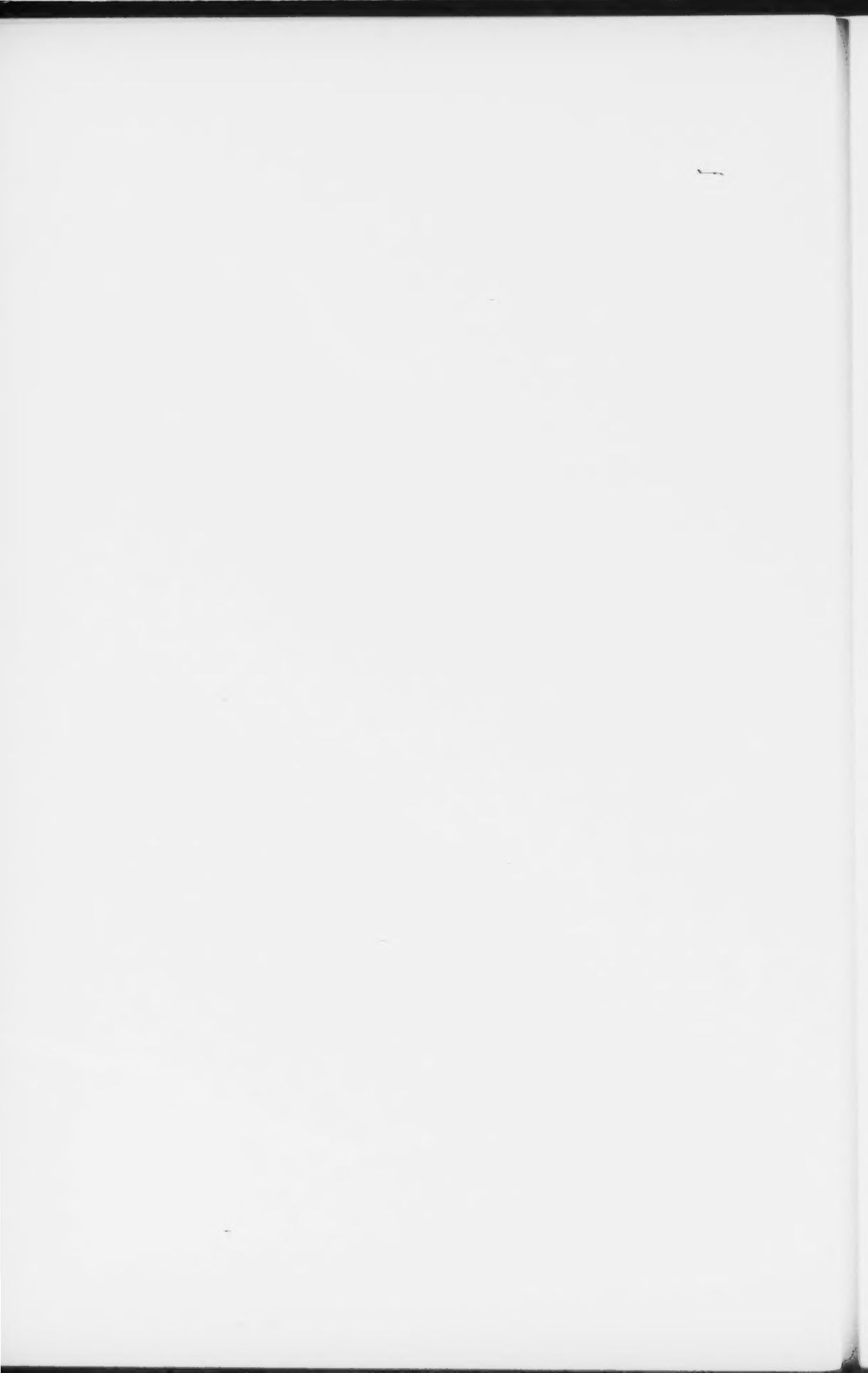
REASONS FOR GRANTING THE WRIT

The processes of the courts have broken down, doing violence to the First, Sixth and Fourteenth (1) Amendments to the U.S. Constitution; and to Pa.R.App.P 105.

It is the purpose of this Honorable Court to secure rights and uniformity of judgments.

Petitioners are litigating a class action, that they not only represent themselves, but tremendously important principles upon which are based the plans, hopes and aspirations of a great many people throughout the country.

Petitioners submit, the decisions



below are in flagrant conflict with fundamental laws and with decisions of this Court are plainly wrong.

CONCLUSION

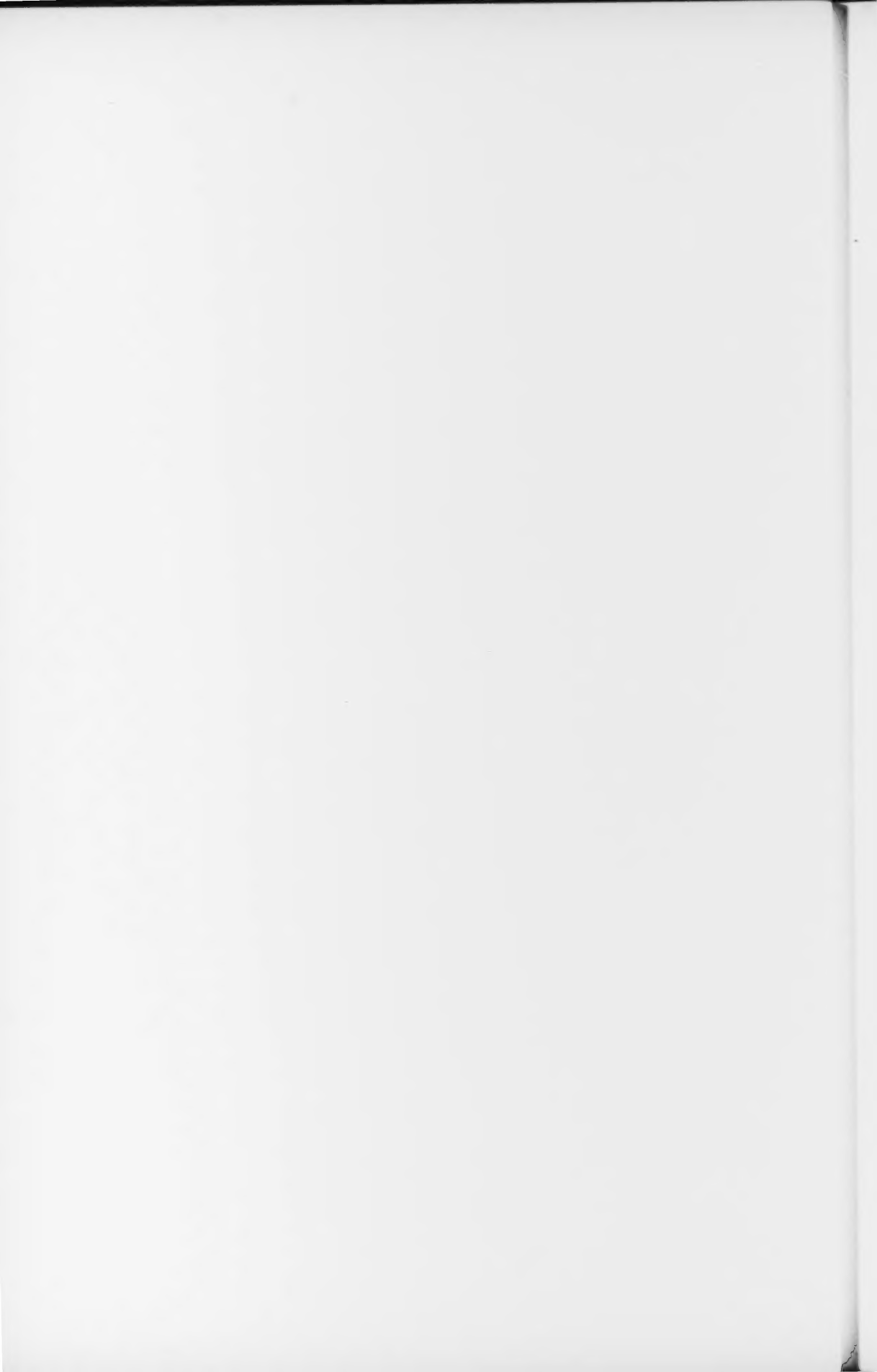
For these reasons, a writ of certiorari should issue to review the Opinions, Orders and Judgments of the Commonwealth and Supreme Courts of Pennsylvania.

Respectfully submitted,

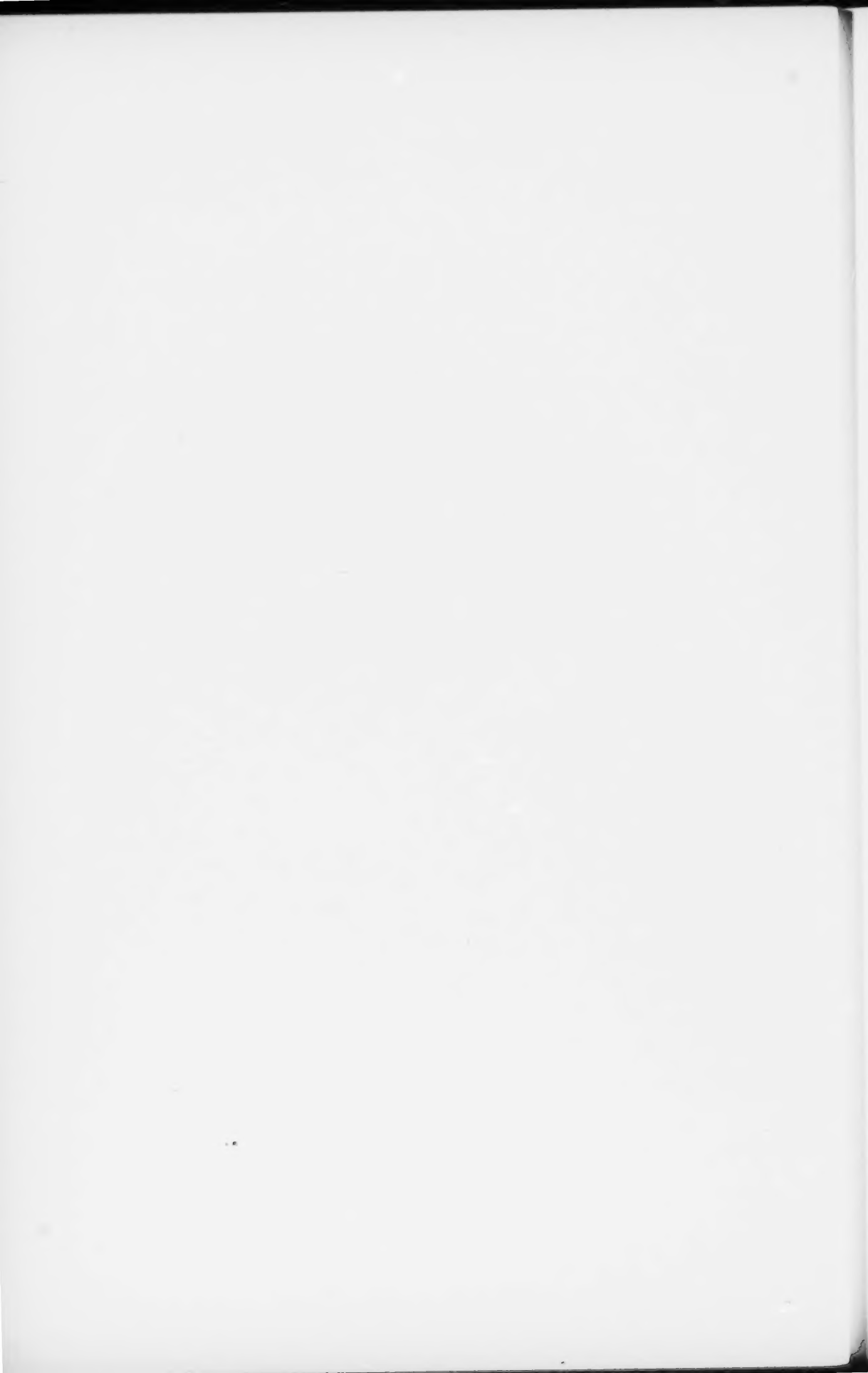
CITIZENS TO SAVE
STATE HOSPITAL,
P. O. Box 172
Peckville, Penn.
18422

Gene Basalyga
P. O. Box 172
Peckville, Pa.
18452

Vicki Wittenbreder,
R. D. Box 296,
Route 4,
Lake Ariel, Pa.
18436



A P P E N D I X



RIDER A

EXHIBIT
NO.

- A 1-26-89 Opinion of Commonwealth Court denied Amended Complaint No. 17 M.D. Appeal Docket 1989
- B 1-26-89 ORDER denied Amended Complaint RE: No. 17 M.D. Appeal Docket 1989
- C 3-9-89 ORDER of Commonwealth Court denied motion for Reconsideration of 1-26-89 Order.
- D. 3-21-89 Notice of Appeal (dated 3-16-89 of ORDER DATED 3-9-89 which denied reconsideration of ORDER dated 1-26-89 RE: No. 17 M.D. Appeal Docket 1989
- E 5-25-89 ORDER QUASHED appeal RE: Nos, 17,18,19,20,21, and 27 M.D. Docket 1989
- F 9-6-89 ORDER of Supreme Court of Pa., denying Application for Reargument RE: Nos. 17,18,19,20,21,27 M.D. Appeal Docket 1989
- G 3-8-89 ORDER of Commonwealth Court removed Ronald Cley as counsel RE: No. 18 M.D. Appeal Docket 1989
- H. 3-21-89 ORDER of Commonwealth Court
 - 1. Denied Motion for Leave to Reconsider ORDER entered 1-26-89 RE: No. 17M.D. Appeal Docket 1989



RIDER A - Continued

2. Denied Motion for Reconsideration of ORDER dated 2-21-89 granting "bill of costs".
RE: No. 20 M.D. Appeal
Docket 1989
3. Denied Motion To Reconsider ORDER dated 3-8-89 which removed Ronald as counsel.
RE: No. 18 M.D. Appeal
Docket 1989

I 3-22-89 NOTICE OF APPEAL (dated 3-16-89) of ORDER dated 3-21-89
RE: No. 18 M.D. Appeal
Docket 1989

J 2-21-89 ORDER of Commonwealth Court
It granted to opposition
"bill of costs" \$1,227.90.
RE: No. 20 M.D. Appeal
Docket 1989

K 3-21-89 NOTICE OF APPEAL (dated 3-16-89)
RE: No. 20 M.D. Appeal
Docket 1989

L 4-25-89 ORDER of Commonwealth Court
It denied petition for leave
to file 9,500 petitions
RE: No. 30 M.D. Appeal
Docket 1989

M 5-3-89 NOTICE OF APPEAL (dated 5-1-89)
of ORDER dated 4-25-89
RE: No. 30 M.D. Appeal
Docket 1989

N 8-29-89 ORDER of Supreme Court of Pa.,
Dismissed Appeal RE: 30
M.D. Appeal
Docket 1989



RIDER A - Continued

- O 10-10-89 ORDER of Supreme Court of Pa.
It denied Application For
Reargument RE: No. 30 M.D.
Appeal Docket 1989
- P 1-30-90 PHOTO of Scranton State General
Hospital complex which is being
scuttled.



IN THE COMMONWEALTH COURT
OF PENNSYLVANIA

CITIZENS FOR STATE HOSPITAL
DOCTOR ALEXANDER M. MUNCHAK,
Chairman, VICKY WITTENBREDER,
President of Senior Citizens
of Lackawanna County,
Petitioners

v.

COMMONWEALTH OF PENNSYLVANIA
ROBERT CASEY, Governor et al.,
Respondents

No. 1746 C.D. 1988

BEFORE: HONORABLE JOSEPH T. DOYLE, Judge
HONORABLE MADALINE FALLADINO, Judge
HONORABLE DORIS A. SMITH, Judge

ARGUED: December 15, 1988

Exhibit

A

OPINION BY JUDGE FALLADINO

FILED: January 26, 1989

Before us in this case are the preliminary objections of the Commonwealth of Pennsylvania, the Governor of the Commonwealth, the Secretary of the Department of Public Welfare (DPW), and the President of the Board of Trustees of Scranton State General Hospital (collectively the Commonwealth) to a petition, in the nature of a complaint in equity, filed in this court's original jurisdiction by: Citizens for State Hospital; Dr. Alexander M. Munchak, Chairman of Citizens for State Hospital; Senior Citizens of Lackawanna County; Vicky Wittenbreder, President of Senior Citizens of Lackawanna County (collectively Citizens), seeking to have this court prevent the Commonwealth from "destroying, selling, transferring and neglecting Scranton State General Hospital" (Scranton). In accordance



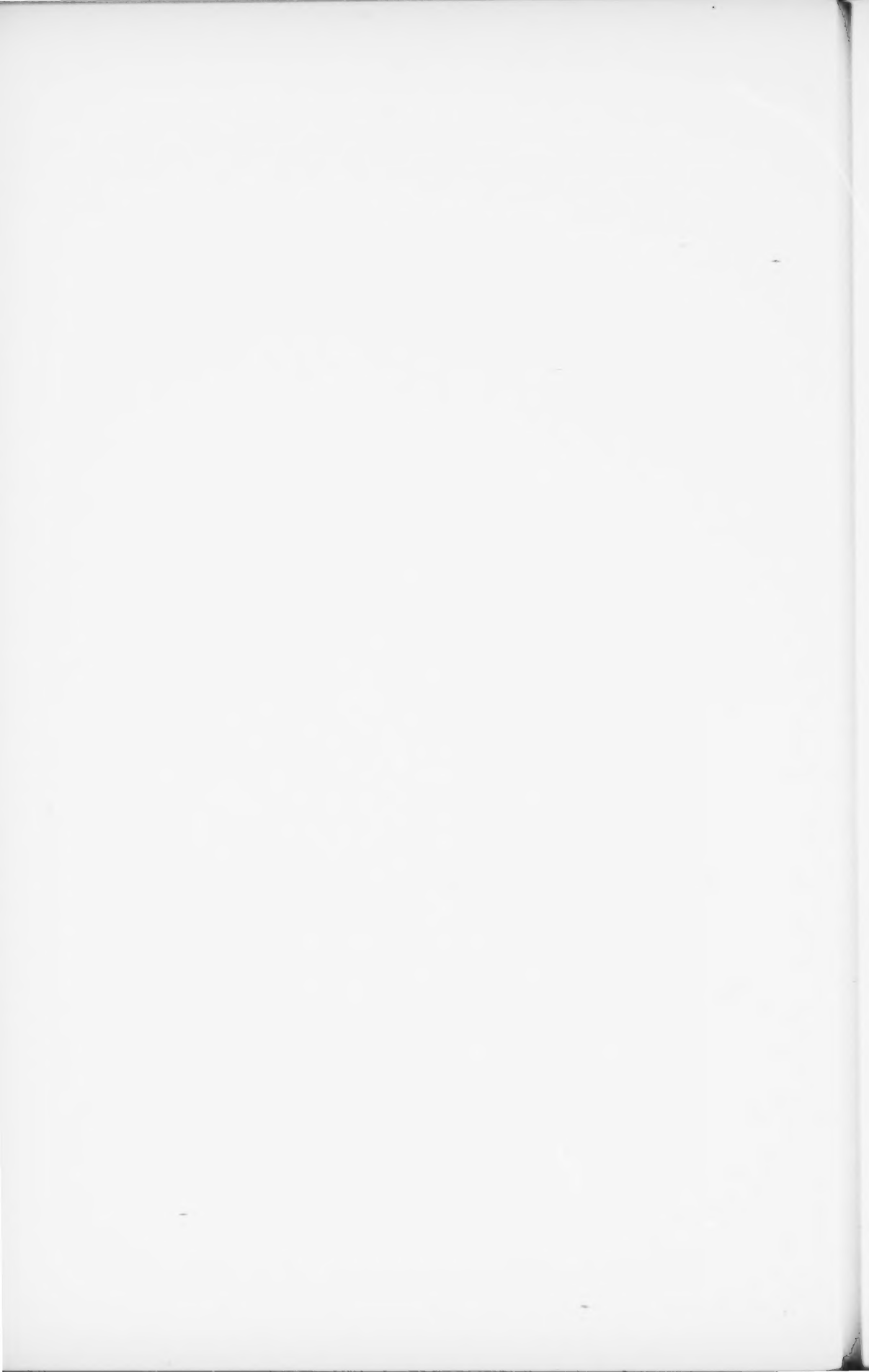
with the following opinion, we sustain the Commonwealth's preliminary objection that Citizens do not have standing and dismiss Citizens' petition.

Citizens first filed their complaint with this court on July 20, 1988. That complaint was not served upon the Commonwealth. On September 20, 1988, Citizens filed an "amended complaint,"¹ which was served on the Commonwealth on October 5, 1988.²

¹ In the original complaint, the Governor was not a named party and the complaint did not conform to the pleading requirements for a class action. The amended complaint contains additional allegations of wrongdoing and a request for damages, names the Governor as a party and conforms to class action requirements.

² Citizens, on September 28, 1988, also filed a petition for a preliminary injunction. After a hearing, this court, on October 21, 1988, enjoined the Commonwealth from taking further action to close and demolish Scranton pending final deposition by the court of the proceedings in this case. The Commonwealth appealed to the Pennsylvania Supreme Court. That appeal, pursuant to Pa. R.A.P. 1736(b), acts as an automatic supersedeas of the preliminary injunction. Citizens sought a stay of the automatic supersedeas, which was denied by this court on December 30, 1988.

The amended complaint was denominated a class action and requested that this court: (1) enjoin the Commonwealth from closing and eliminating Scranton and from denying Citizens the right to "enjoy" Scranton; (2) declare that the actions of the Commonwealth complained of violate the laws and constitutions of Pennsylvania and the United States; and (3) award damages, costs and attorney's fees. The Commonwealth's preliminary objections to the amended complaint include a demurrer, an objection to jurisdiction, a motion to strike, and a challenge to Citizens' standing to obtain the relief requested. Because we conclude that Citizens do not have the requisite standing, we will not address the other preliminary objections raised by the Commonwealth. In order to fully understand why Citizens do not have standing to bring this action, it is first necessary to briefly set forth the legal and factual background of the complaint.



BACKGROUND

Scranton came into existence when the Commonwealth was authorized to accept the conveyance and transfer of the Lackawanna Hospital of Scranton, to be used as a "State Hospital for the Northern Anthracite Coal Region of Pennsylvania," by section 1 of the Act of July 18, 1901, P.L. 775. Section 1 of the Act of July 18, 1901 also directed the Governor to appoint a board of trustees to manage the hospital. Section 2 of the Act of July 18, 1901 stated:

This hospital shall be specifically devoted to the reception, care and treatment of injured persons in the northern anthracite coal region, composed of the county of Lackawanna and the adjacent counties of Wyoming, Susquehanna and Wayne, and in order of admission this class shall have precedence over paying patients.

Section 1 of the Act of July 18, 1901 was repealed by section 2901 of the Administrative Code of 1923, Act of June 7, 1923, P.L. 498, as amended, 71 P.S. Section 31.



The Administrative Code of 1923 reorganized the conduct of the executive and administrative work of the Commonwealth. Preamble to the Administrative Code of 1923. The Board of Trustees of Scranton was placed in the Department of Public Welfare (DFW), section 202 of The Administrative Code, 71 P.S. Section 12,³ and DFW was recognized as part of the Executive Department. Section 201 of the Administrative Code of 1923, 71 P.S. Section 13.

Section 2 of the Act of July 18, 1901 was repealed by section 7 of the Act of June 19, 1939, P.L. 438. Section 1 of the Act of June 19, 1939 removed the restrictions as to which patients Scranton was to treat and to which type of patient Scranton was to give priority. The Act of June 19, 1939 was subsequently repealed by section 1501 of

³ The composition of the Board of Trustees of Scranton, and other state institutions, is currently provided for in section 401 of The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, as amended, 71 P.S. Section 111.

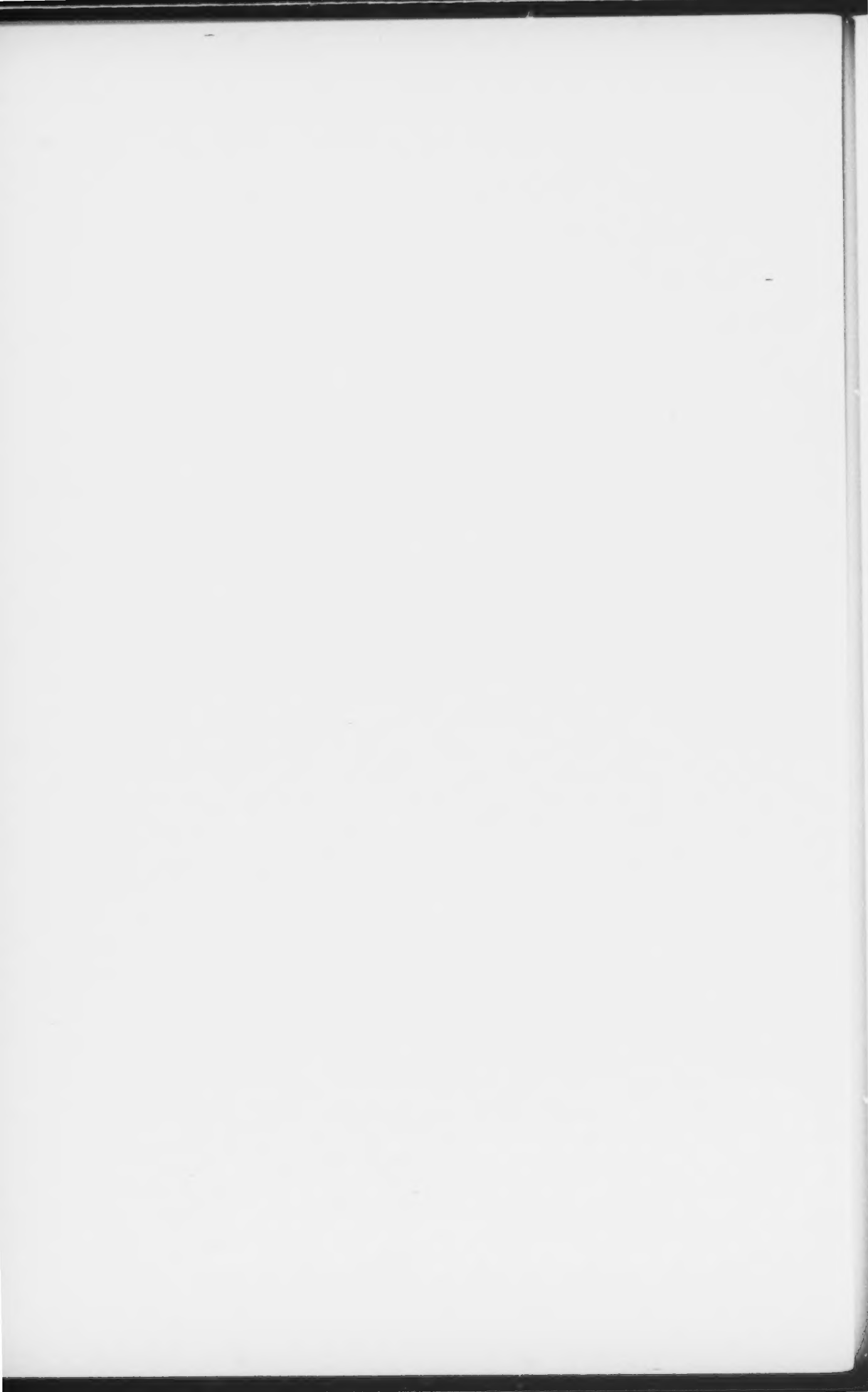


the Public Welfare Code (Code), Act of June 13, 1967, P.L. 31, as amended, 62 P.S. Section 1501. The Code, 62 P.S. Sections 101-1503, was enacted "to consolidate, editorially revise, and codify the public welfare laws of the Commonwealth." Preamble to the Public Welfare Code. Section 321 of the Code, 62 P.S. Section 321, contains the purpose of the state general hospitals and states:⁴

The State general hospitals are declared to be hospitals for the care and treatment of the ill, without any restrictions other than those now or thereafter imposed by law upon all general hospitals, and except as each individual institution is restricted by the limitations of its facilities and equipment.

Citizens allege in their amended complaint that the Commonwealth and the Secretary of DFW intend to demolish Geranton and construct a veteran's center on the site and that the Governor requested the legislature to appropriate funds for the demolition. Amended com-

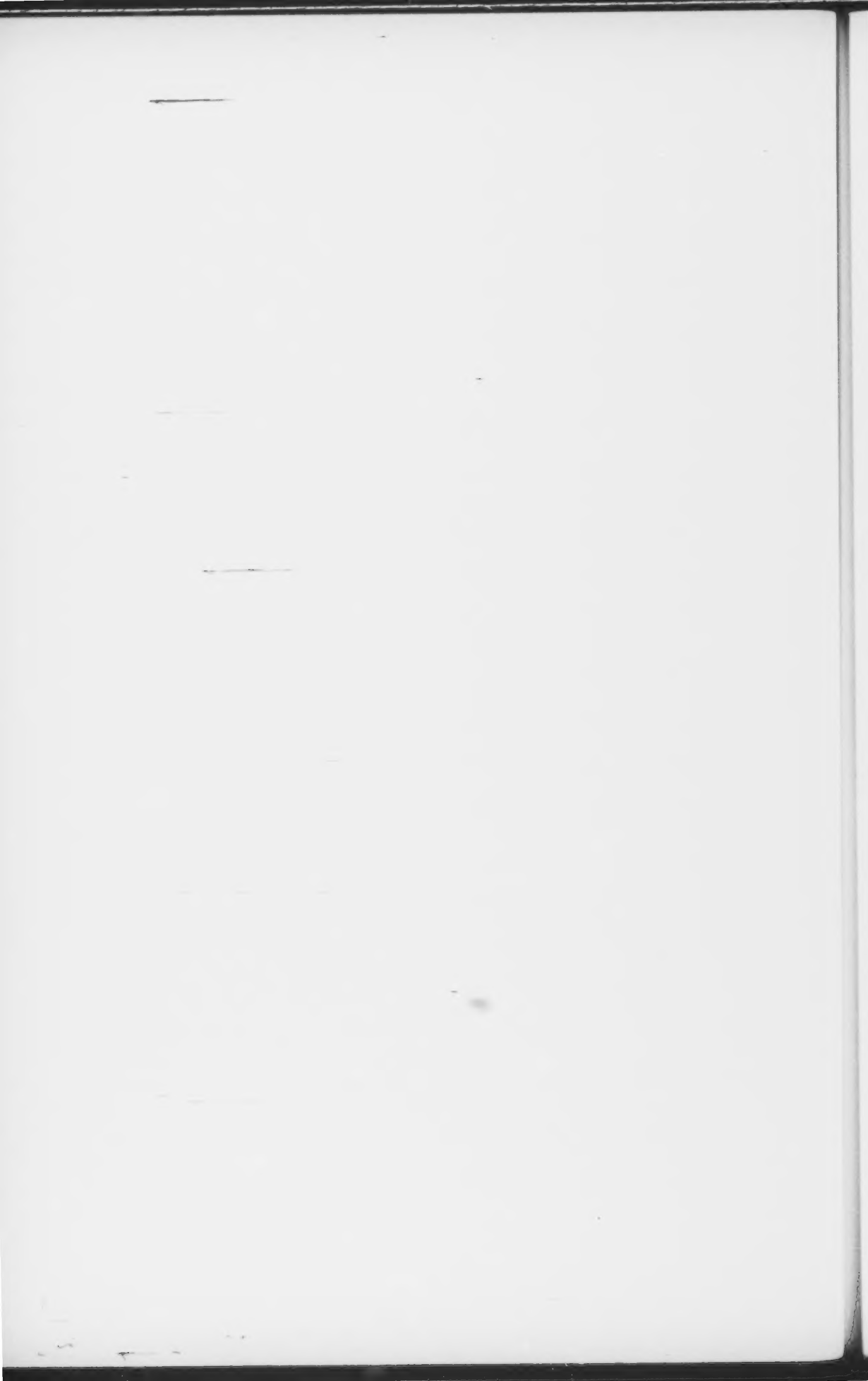
⁴ The purpose contained in section 321 is essentially the same as that which appeared in Section 1 of the Act of June 19, 1939.



plaint, paragraphs 20 and 21. Citizens also allege that on September 1, 1988, the Commonwealth planned to begin to relocate Scranton's employees with the ultimate goal of closing Scranton on December 31, 1988. ID., paragraph 29. The Commonwealth does not dispute that it plans to close Scranton, demolish it and build a veteran's home on the site and, in fact, refers us to the Capital Budget Project Itemization Act for 1987-1988, Act of October 21, 1988, P.L. ___, in which the legislature appropriated \$8,190,000 for demolition of Scranton and construction of a veteran's home. Commonwealth's brief at 11. It was the decision to close Scranton which precipitated this suit by Citizens.

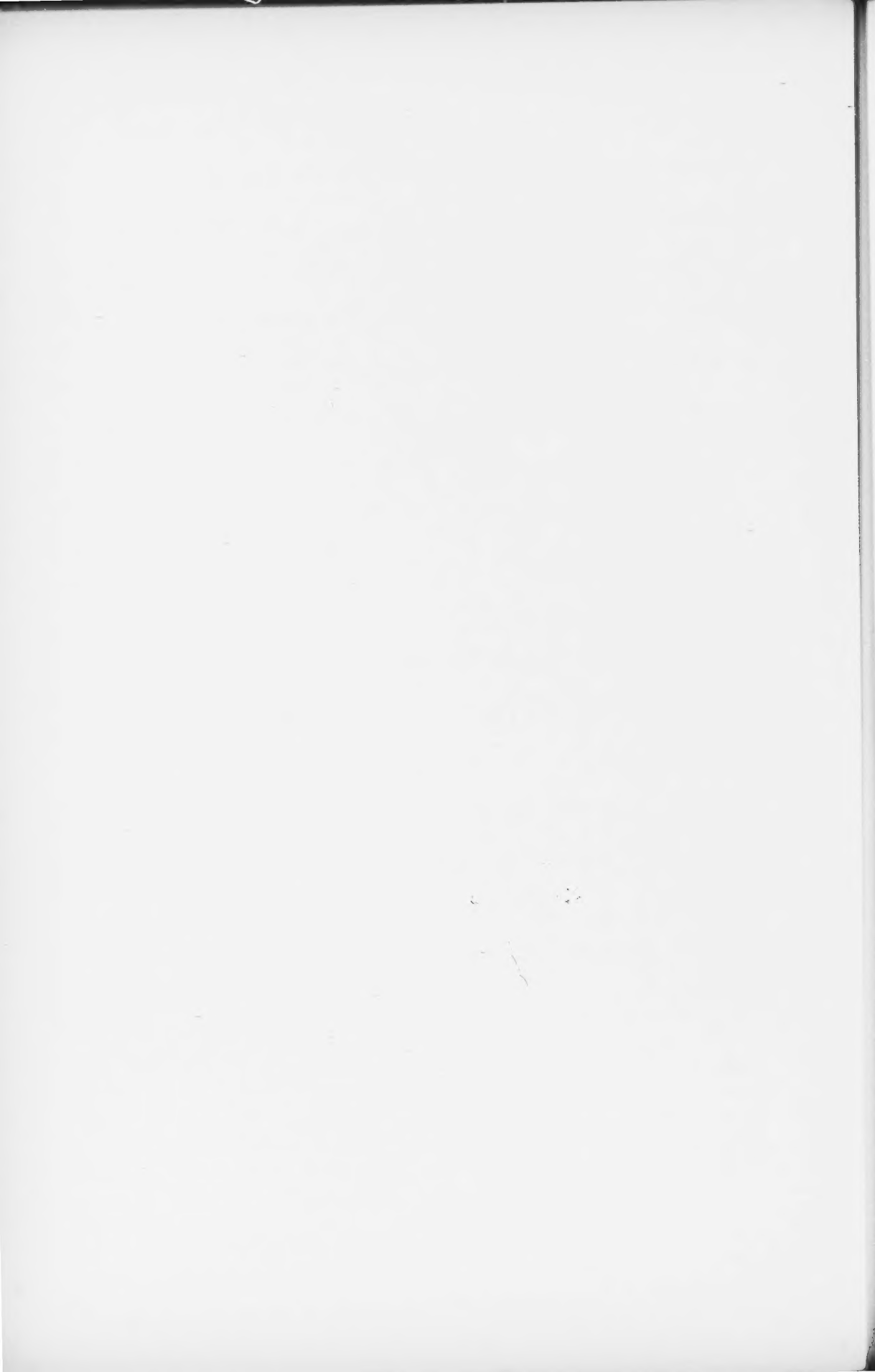
STANDING

The Commonwealth argues that Citizens have failed to allege facts which show how they are "aggrieved" by alleged wrongful actions of the Commonwealth and, therefore, have failed to satisfy the requirements of standing to bring



this suit, as set forth by the Pennsylvania Supreme Court in its opinion in Wm. Penn Parking Garage, Inc. v. City of Pittsburgh, 464 Pa. 168, 346 A.2d 269 (1975). Citizens counter by contending that because their amended complaint contains class action allegations, they must be considered as having standing until this court determines whether the class action should be certified.⁵ Initially, we note that filing a complaint as a class action does not prohibit a preliminary objection based on standing. We recognize that a suit, denominated as a class action, should be considered as a class action, even if not properly alleged, until the pleadings have been closed. See Sherrer v. Lamb, 319 Pa. Superior Ct. 290, 466 A.2d 163 (1983). Standing, however, is a prerequisite to obtaining judicial resolution of a dispute.

⁵ Class actions are controlled by Pa. R.C.P. Nos. 1701-1716. Rules 1707-1711 deal with certification. Rule 1707(a) provides that certification shall be decided within 30 days after the pleadings are closed or the last pleading was due.



Wm. Penn Parking Garage. If the named plaintiffs in a class action do not have standing, they cannot maintain a class action. Nye v. Erie Insurance Exchange, 504 Pa. 3, 470 A.2d 98 (1983).

The leading Pennsylvania case on standing is Wm. Penn Parking Garage. In that case, the Pennsylvania Supreme Court described standing as follows:

The core concept, of course, is that a person who is not adversely affected in any way by the matter he seeks to challenge is not 'aggrieved' thereby and has no standing to obtain a judicial resolution of his challenge. In particular, it is not sufficient for the person claiming to be 'aggrieved' to assert the common interest of all citizens in procuring obedience to the law.

Id. at 192, 346 A.3d at 280-281. To be considered aggrieved, a party, seeking to challenge governmental action, "must show a direct and substantial interest," i.e. an interest other than that of the general public which will be adversely affected by the challenged action, and "show a sufficiently close causal connection between the challenged action and



the asserted injury to qualify the injury, as 'immediate' rather than 'remote.'" Id. at 202, 346 A.2d at 236. Associations have standing to sue on behalf of their members if they allege that at least one of their members has or will suffer "a direct, immediate and substantial injury" to an interest as a result of the challenged action.

Pennsylvania Gamefowl Breeders Ass'n v. Commonwealth, ____ Pa. Commonwealth Ct. ____, ____, 533 A.2d 838, 840 (1987).

The only allegations in Citizens' amended complaint that allege harm to an interest are as follows:

26. If in fact the Scranton General Hospital ceases to operate, the Plaintiffs and other similarly (sic) situated individuals and citizens of the counties of Lackawanna, Wyoming, Susquehanna and Wayne will be without the benefit of a public, general care hospital in contravention of the expressed determination of the general assembly that the Commonwealth of Pennsylvania shall operate a public care hospital in the aforementioned counties.

....

31. Defendants (sic) conspiracy to close Scranton State General Hospital and convert it to a V.A. Nursing Home is one of blatant

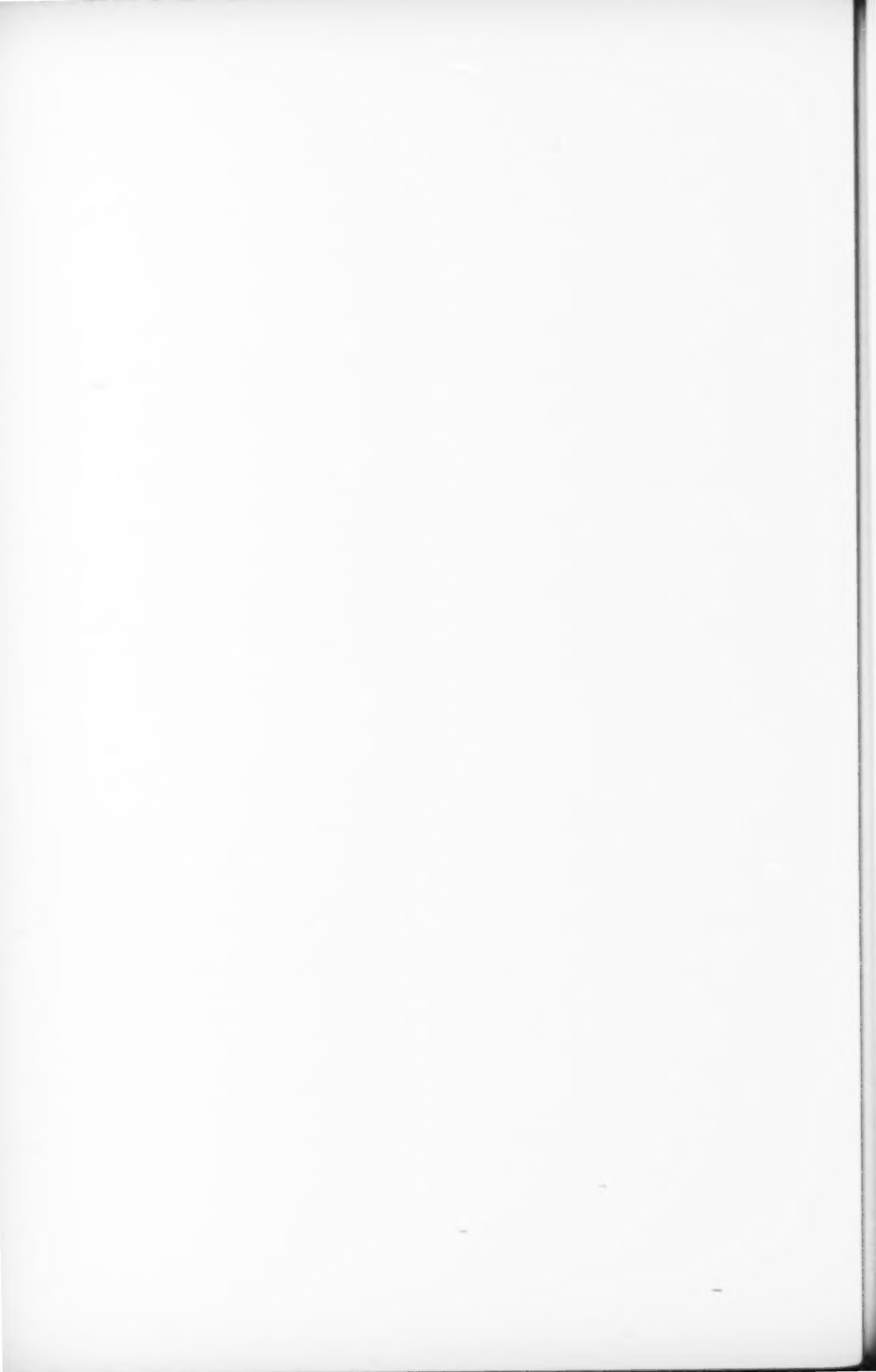
and malicious conduct in that, they are intentionally depriving the indigent and all others who rely on Scranton State General Hospital for necessary medical care solely for the benefit of the Defendants, as well as the area's Private Hospitals and others who have interests in the closing of Scranton State General Hospital.

32. The Defendants, on the basis of their unlawful conduct set forth above with specificity, have deprived Plaintiffs of the full and equal enjoyment of the services, facilities, privileges, advantages and accommodations in Scranton State General Hospital, which is intent (sic) and willful with the full purpose and interest of depriving Plaintiffs of their constitutional right to freely use State Property.

33. Plaintiffs . . . are suffering and will continue to suffer irreparable injury because of the adamant discriminatory policy, practice to ruin, close and demolish the useful and, historic red brick masonry hospital structure worth over fifty million dollars.

Examination of the above allegations shows that the interest alleged to be harmed is the same as that of all the citizens of the Commonwealth who might require the services provided by a hospital.⁶ There are no allegations that

⁶ Because of the legislative action taken with respect to Scranton since its establishment, set forth in the background section of this opinion, it is clear that the residents of Lackawanna, Wyoming, Susquehanna and Wayne Counties have no greater



anyone utilizing the services Scranton provides has been unable or will be unable to obtain those services because of the Commonwealth's alleged wrongdoing in connection with Scranton. We note that Dr. Munchak, a named plaintiff, is alleged to be a medical doctor on Scranton's staff but the amended complaint contains no allegations of harm to him in connection with that position.

General allegations that the "indigent and others" who rely on Scranton will be harmed do not show a direct and substantial interest which will suffer an immediate harm if the Commonwealth closes and demolishes Scranton. Citizens' amended complaint does no more than allege harm to the interest all Pennsylvanians have in seeing that the law is obeyed. That is insufficient to meet the requirements of standing. Wm. Penn Parking Garage.

right to care in Scranton than any other individual. Therefore, the fact that Citizens live in those counties does not establish an interest other than that enjoyed by the public.

Accordingly, we sustain the Commonwealth's preliminary objection relating to standing and the petition is dismissed.

S. Madaline Palladino, Judge

Judge Smith dissents.

IN THE COMMONWEALTH COURT
OF PENNSYLVANIA

CITIZENS FOR STATE HOSPITAL
DOCTOR ALEXANDER M. MUNCHAK,
CHAIRMAN ET AL.,
Petitioners

V.

COMMONWEALTH OF PENNSYLVANIA,
ROBERT CASEY, GOVERNOR ET AL.,
Respondents

No. 1746 C.D. 1988

ORDER

AND NOW, this 21st day of October, 1988, it is Ordered that until final disposition by this Court of proceedings filed herein, Respondents are hereby enjoined from taking further action to close and demolish the Scranton State General Hospital.

This Order is conditioned upon Petitioners filing a bond in the amount of \$10,000.00 as provided in Pa. R.C.P. No. 1531(b)(1) or depositing such sum with the Prothonotary (Exhibit B Oct. 21, 1988)

Exhibit

B

(Exhibit B continued Oct. 21, 1988)
Judge Doris A. Smith

of Commonwealth Court pursuant to Pa. R.C.P.
No. 1531 (b)(2) within seven (7) days from
the date of this Order. The preliminary
injunction shall be automatically dissolved
if Petitioners fail to file the required bond.
It is further Ordered that proceedings are
to be expedited in this matter to arrive at
a final disposition by this Court and that
Respondents are to file their responsive
pleading to the Amended Complaint no later
than Friday, October 20, 1988

Doris A. Smith, J.
DORIS A. SMITH, Judge

EXHIBIT B
October 21, 1988



IN THE COMMONWEALTH OF PENNSYLVANIA

CITIZENS FOR STATE HOSPITAL.
DOCTOR ALEXANDER M. MUNCHAK,
CHAIRMAN et al.,

Petitioners No. 1746 C.D.
v. 1988

COMMONWEALTH OF PENNSYLVANIA.
ROBERT CASEY, GOVERNOR et al.,
Respondents

PER CURIAM ORDER

NOW, March 9, 1989, it is ordered as
follows:

1. Upon consideration of petitioners'
request to correct the record, said request
is dismissed.

2. Upon consideration of petitioners'
motion for reconsideration, and it appear-
ing that the Court's opinion and order were
entered January 26, 1989, and the last day
to file an motion for reconsideration was
filed March 8, 1989, said motion is dismis-
sed as untimely filed. See Pa.R.A.P.2542,
2547.

CERTIFIED FROM THE RECORD
AND ORDER DIT Mar 9, 1989
S/CP (illegible)
Deputy Prothonotary-Chief Clerk

Exhibit

C



COMMONWEALTH COURT OF PENNSYLVANIA

1746 C. D. 1988

CITIZENS FOR STATE HOSPITAL, ET AL.,
Plaintiffs,

vs

COMMONWEALTH OF PA., ET AL.,
Defendants.

NOTICE OF APPEAL

Notice is hereby given that plaintiffs
above named, hereby appeal to the Supreme
Court of Pennsylvania from the Order dated
in this matter as shown below:

3-9-89 "ORDER" which denied the motion
for reconsideration filed 3-8-89.

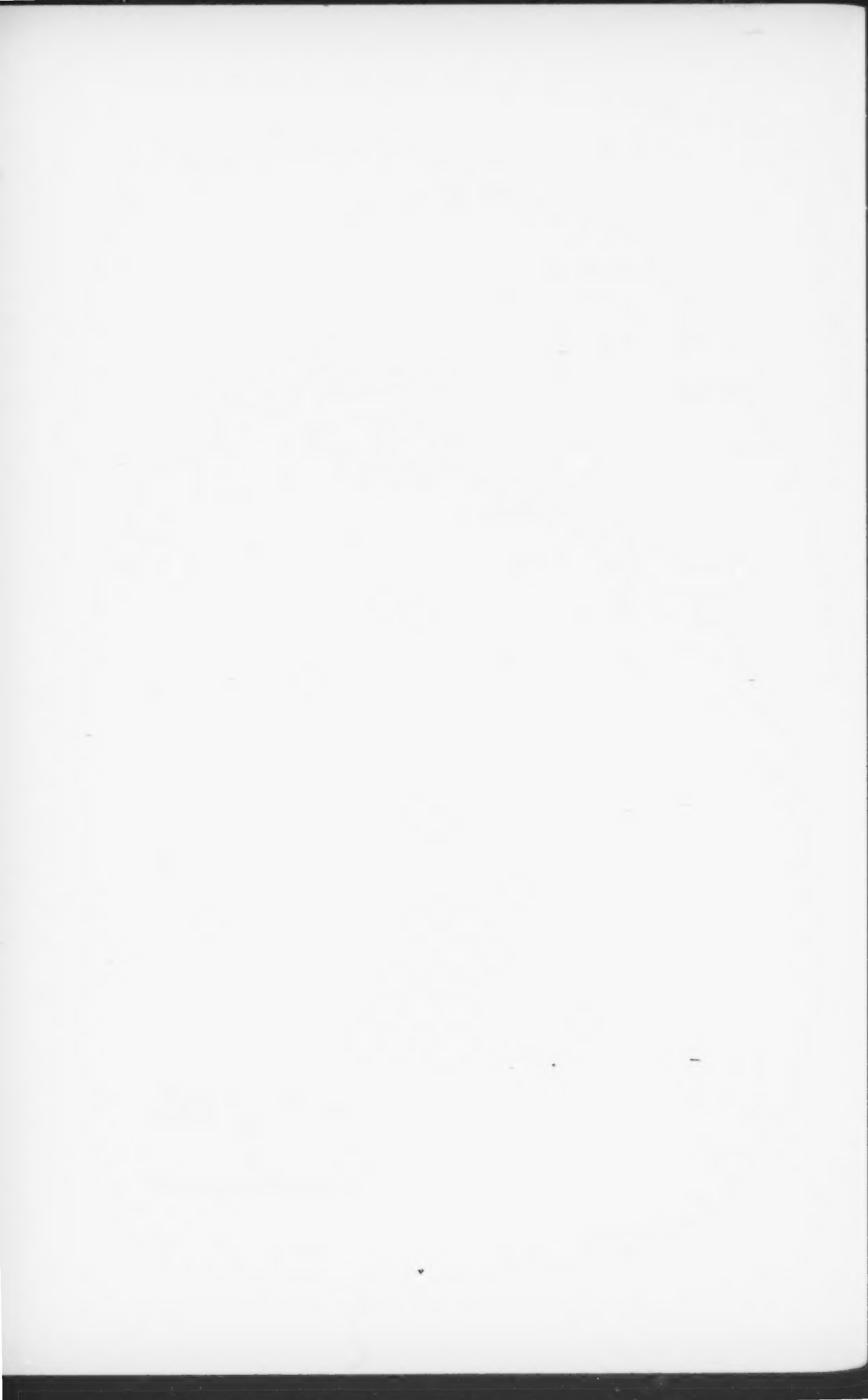
DATE: 3-16-89

S/A.M. Munchak, M.D.
311 N. Irving Ave.
Scranton, Pa. 18501

S/Angie Drazba
2305 Ransom Road
Clarks Summit, Pa. 18411

Exhibit

D



IN THE SUPREME COURT OF PENNSYLVANIA
Middle District

CITIZENS FOR STATE HOSPITAL,
DR. ALEXANDER M. MUNCHAK,
CHAIRMAN, ET AL.,
Appellants

v.

COMMONWEALTH OF PENNSYLVANIA,
ROBERT CASEY, GOVERNOR, ET AL.

Nos. 17, 18, 19, 20 21 & 27
M.D. Appeal Dkt. 1989

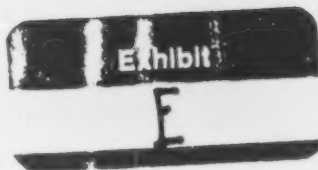
ORDER

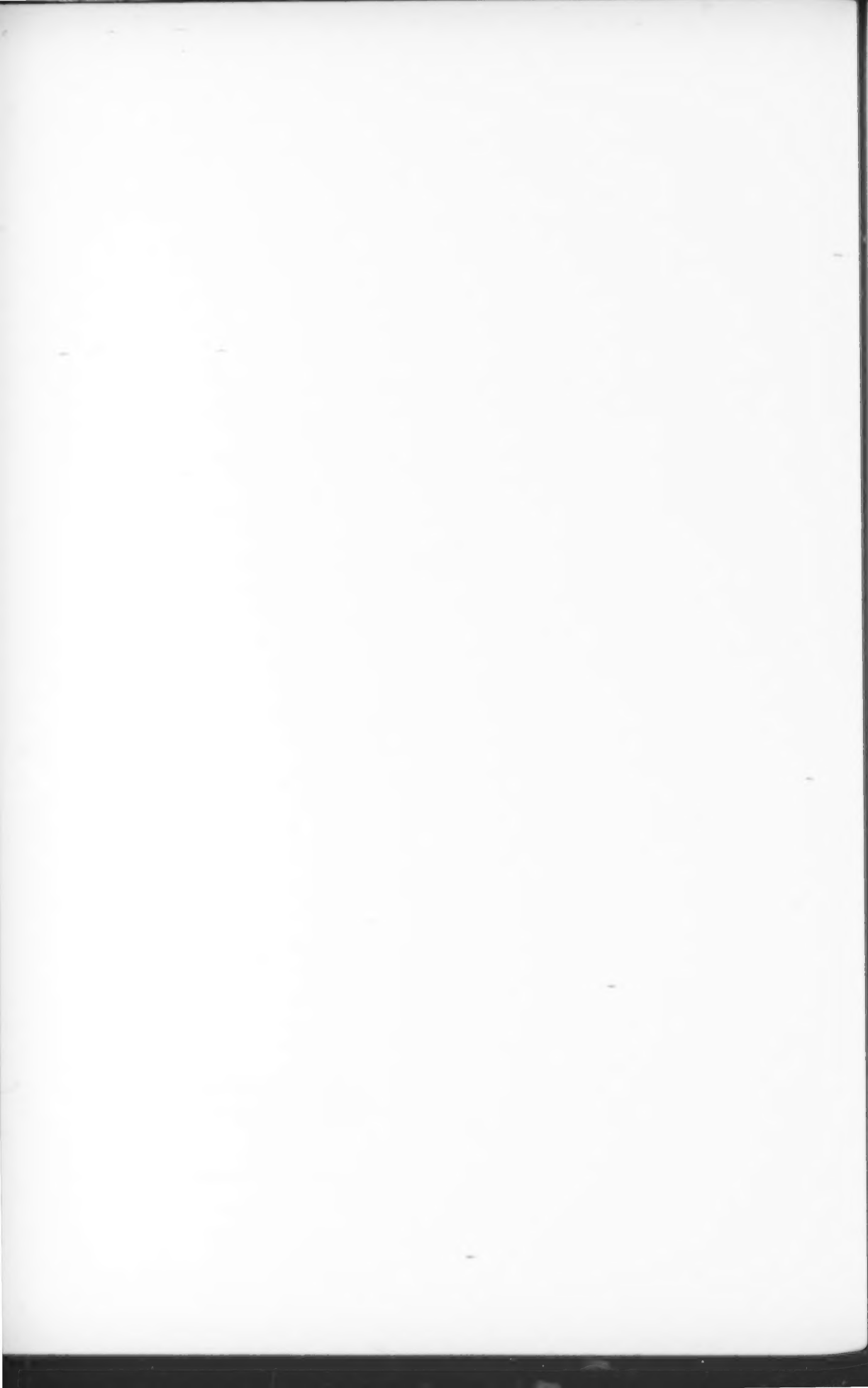
PER CURIAM:

AND NOW, this 25th day of May,
1989, the abovecaptioned appeals are hereby
quashed.

TRUE AND CORRECT COPY:
ATTEST: May 26, 1989

S. Shirley Bailey
Chief Clerk





IN THE SUPREME COURT OF PENNSYLVANIA
Middle District

CITIZENS FOR STATE HOSPITAL,
DR. ALEXANDER M. MUNCHAK,
CHAIRMAN, ET AL.,
Appellants

v

COMMONWEALTH OF PENNSYLVANIA,
ROBERT CASEY, GOVERNOR, ET AL.

Nos. 17, 18, 19, 20, 21 & 27
M.D. Appeal Dkt. 1989

ORDER

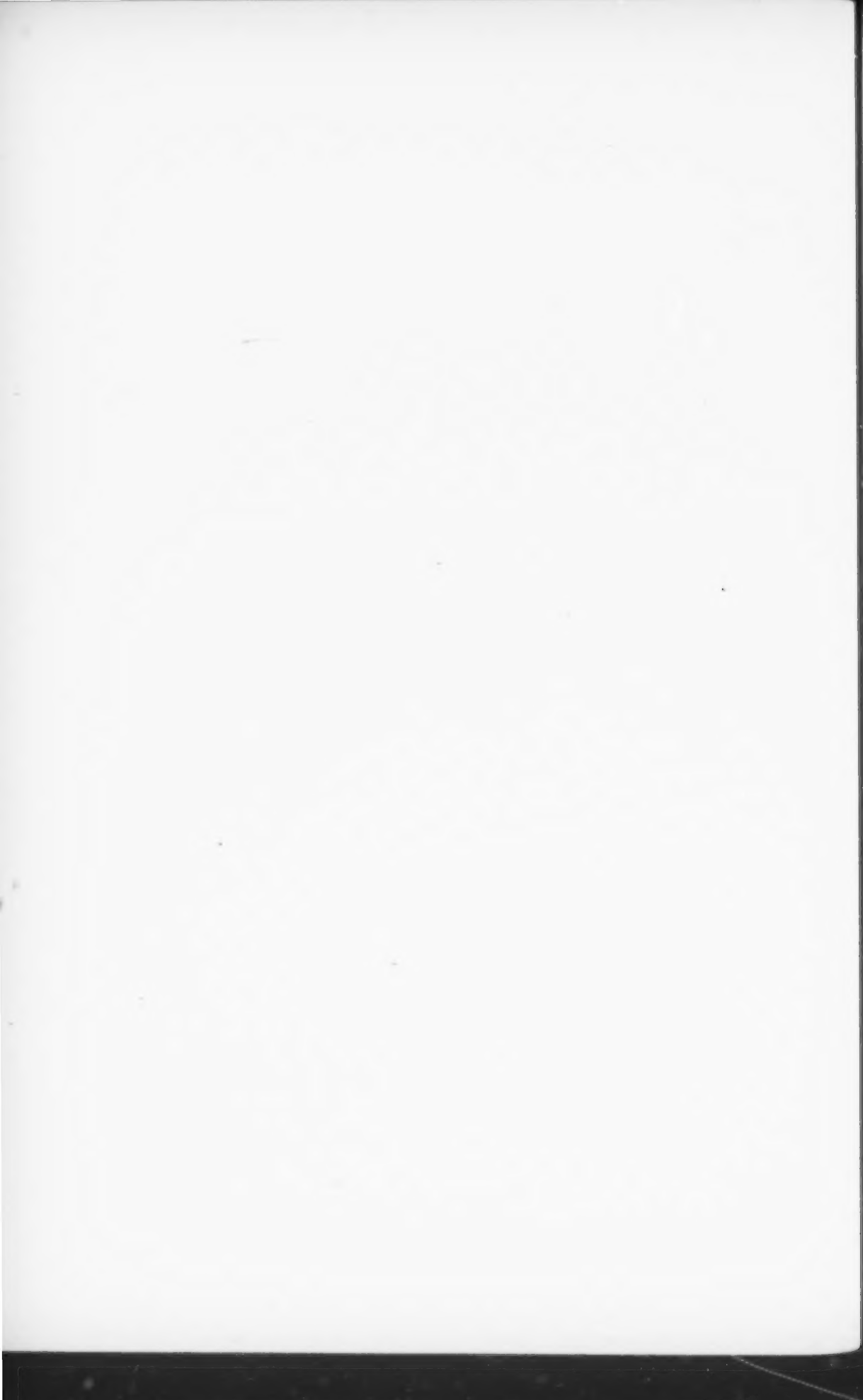
PER CURIAM:

AND NOW, this 6th day of September,
1989, the Application for Reargument is
denied.

TRUE AND CORRECT COPY:
ATTEST: September 7, 1989

S Mildred E. Williamson
DEPUTY PROTHONOTARY





IN THE COMMONWEALTH COURT
OF PENNSYLVANIA

No 1746 C.D. 1988

CITIZENS FOR STATE HOSPITAL
DOCTOR ALEXANDER M. MUNCHAK,
Chairman, VICKY WITTENPREDER,
President of Senior Citizens
of Lackawanna County,
Petitioners

v.

COMMONWEALTH OF PENNSYLVANIA,
ROBERT CASEY, Governor et al.,
Respondents

ORDER

AND NOW, March 8, 1989, upon consid-
eration of the petition of Petitioners' counsel,
Ronald D. Oley, to withdraw as counsel in the
above-captioned matter and the Respondents' and
Petitioners' answers thereto, the petition
is granted. The Chief Clerk is directed to -
remove Ronald D. Oley as counsel of record
for Petitioners.

S/MADALINE PALLADINO,
JUDGE

CERTIFIED FROM THE RECORD

Exhibit

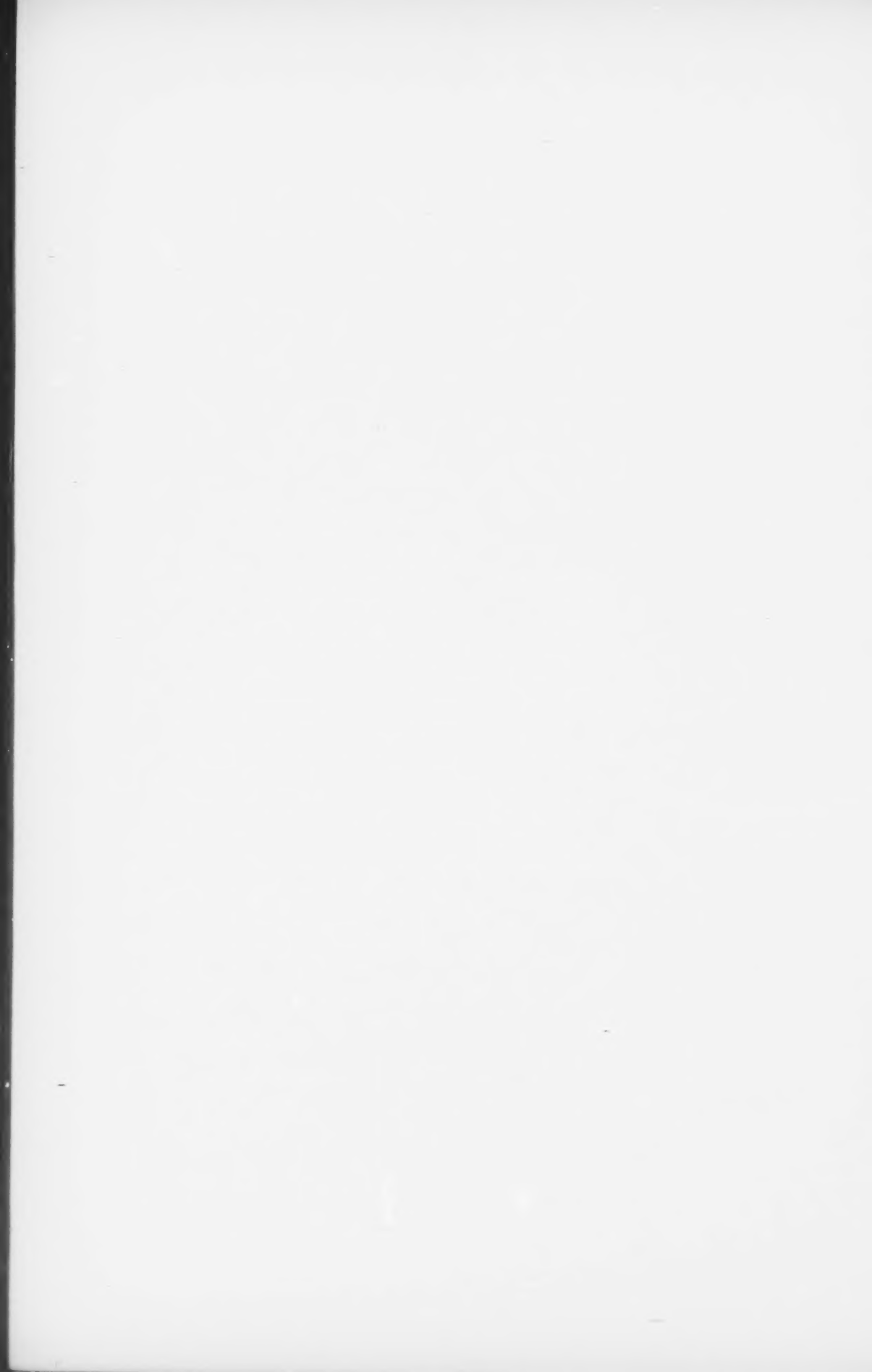
AND ORDER EXIT

Mar 8, 1989

S/C. R. Hostetler

Deputy Prothonotary-Chief Clerk

G



IN THE COMMONWEALTH COURT OF PENNSYLVANIA

CITIZENS FOR STATE HOSPITAL
DOCTOR ALEXANDER M. MUNCHAK,
CHAIRMAN et al.,
Petitioners

No. 1746 C.D. 1988

v.

COMMONWEALTH OF PENNSYLVANIA,
ROBERT CASEY, GOVERNOR et al.,
Respondents

CERTIFIED FROM
THE RECORD
AND ORDER EXIT
Mar 22, 1989

S/C.P. Hostettler
Deputy Prothonotary
Chief Clerk

PER CURIAM

ORDER

NOW, March 21, 1989, it is ordered as follows:

1. Upon consideration of petitioners' "motion to reconsider order dated March 8, 1989, which granted petition of R. Oley to withdraw as counsel", said motion is denied.

2. Upon consideration of petitioners' "motion for reconsideration of order dated February 21, 1989 regarding 'bill of costs'" said motion is denied.

3. Upon consideration of petitioners' "motion for leave to file appeal of order entered 1-26-89, nunc pro tunc". said motion is denied.

Exhibit

H

4. Upon consideration of the "writ of error coram nobis reconsideration order March 7, 1989, said writ is dismissed.

COMMONWEALTH COURT OF PENNSYLVANIA

1946 C.D. 1988

CITIZENS FOR STATE HOSPITAL, ET AL.,
Plaintiffs,

vs

COMMONWEALTH OF PA., ET AL.,
Defendants.

NOTICE OF APPEAL

Notice is hereby given that plaintiffs
above named, hereby appeal to the Supreme
Court of Pennsylvania from the Order dated
in this matter as shown below:

3-8-89 "ORDER" granted R. Cley's
petition to withdraw as
counsel.

DATE: 3-16-89

S/A.M. MUNCHAK, M.D.
311 N. Irving Ave.
Scranton, Pa. 18501

S/Angle Drazba
2305 Ransom Road
Clarks Summit, Pa. 18411





IN THE COMMONWEALTH COURT OF PENNSYLVANIA

NO. 1746 C.D. 1988

CITIZENS FOR STATE HOSPITAL,
DOCTOR ALEXANDER M. MUNCHAK,
CHAIRMAN, et al.,
Petitioners

v.

COMMONWEALTH OF PENNSYLVANIA,
ROBERT CASEY, GOVERNOR et al.,
Respondents

PER CURIAM

ORDER

1989?
NOW, February 21, 1988, upon consideration
of the Commonwealth respondents' bill of costs
is approved and costs are taxed in favor of
the Commonwealth parties and against peti-
tioners in the amount of \$1,227.90.

CERTIFIED FROM THE RECORD
AND ORDER EXIT
Feb 22, 1989

S/C.P. (Illegible)

Deputy Prothonotary
Chief Clerk

Exhibit

J



COMMONWEALTH COURT OF PENNSYLVANIA

1746 C. D. 1988

CITIZENS FOR STATE HOSPITAL, ET AL.,
Plaintiffs,

vs

COMMONWEALTH OF PA., ET AL.,
Defendants.

NOTICE OF APPEAL

Notice is hereby given that plaintiffs
above named, hereby appeal to the Supreme
Court of Pennsylvania from the Order dated in
this matter as shown below:

2-21-89 "ORDER" for alleged "bill of costs"

\$1,227.90

DATE: 3-16-89

S/A.M. MUNCHAK, M.D.
311 N. Irving Ave.
Scranton, Pa. 18501

S/Angie Drazba
2305 Ransom Road
Clarks Summit, Pa. 18411

Exhibit

K

IN THE COMMONWEALTH COURT
OF PENNSYLVANIA

No. 1746 C.D. 1988

CITIZENS FOR STATE HOSPITAL,
DOCTOR ALEXANDER M. MUNCHAL,
CHAIRMAN et al.,

Petitioners

v.

COMMONWEALTH OF PENNSYLVANIA,
ROBERT CASEY, GOVERNOR et al.,
Respondents

PER CURIAM

O R D E R

Now, April 29, 1989, upon consideration of petitioners' "petition for leave of court to file 9,500 petitions to save state hospital," said petition is denied.

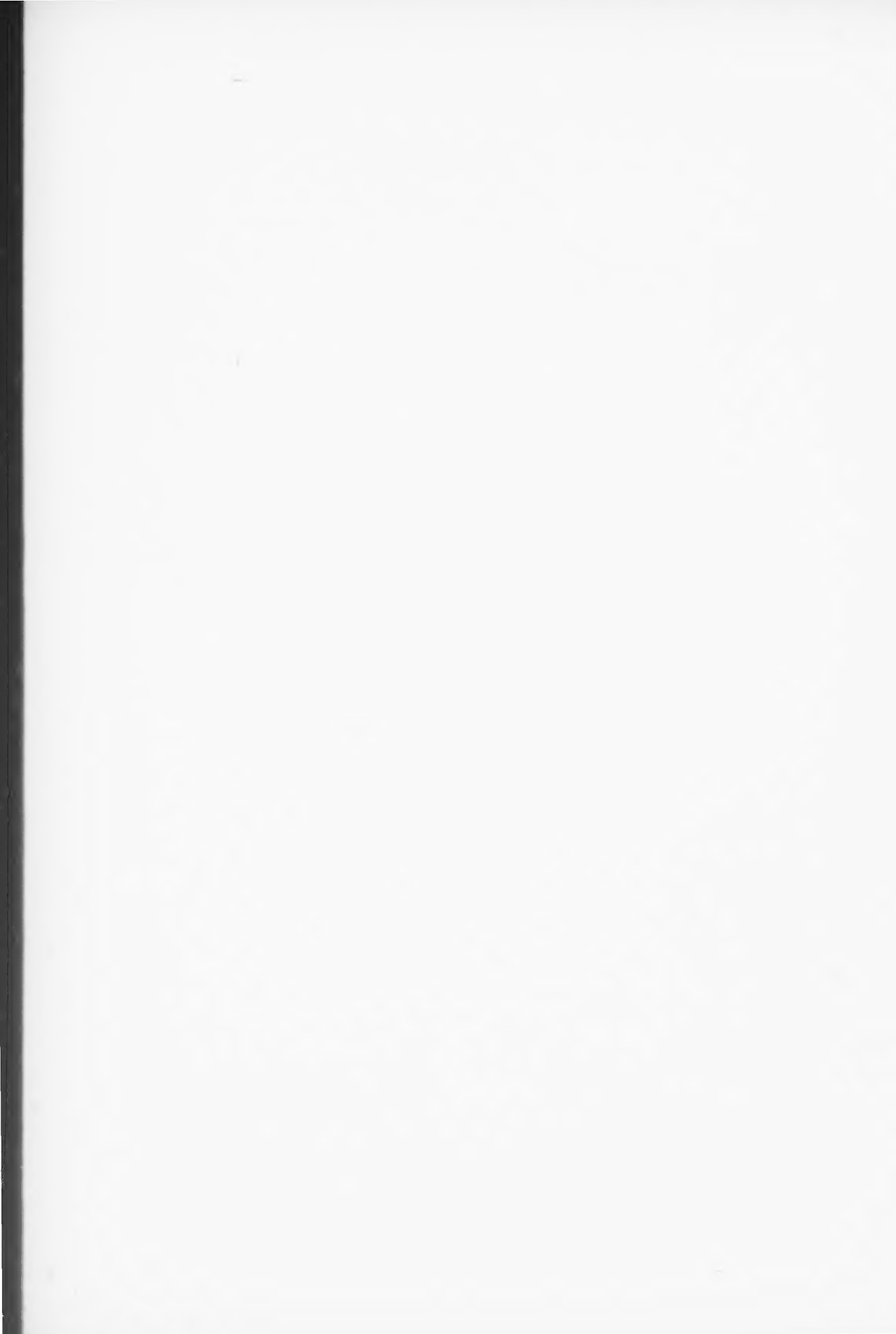
CERTIFIED FROM THE RECORD
AND ORDER EXIT
Apr. 26, 1989

C.R. Hostetler

Deputy Prothonotary-Chief Clerk

Exhibit

L



IN THE COMMONWEALTH COURT OF PENNSYLVANIA
No 1746 C.D. 1988

CITIZENS FOR STATE HOSPITAL,
DOCTOR ALEXANDER M. MUNCHAK,
CHAIRMAN, VICKY WITTENBREDER,
PRESIDENT OF SENIOR CITIZENS
OF LACKAWANNA COUNTY,
Plaintiffs,

vs.

DOCKETED (stamp
illegible
3/E 3 May 3,
1989

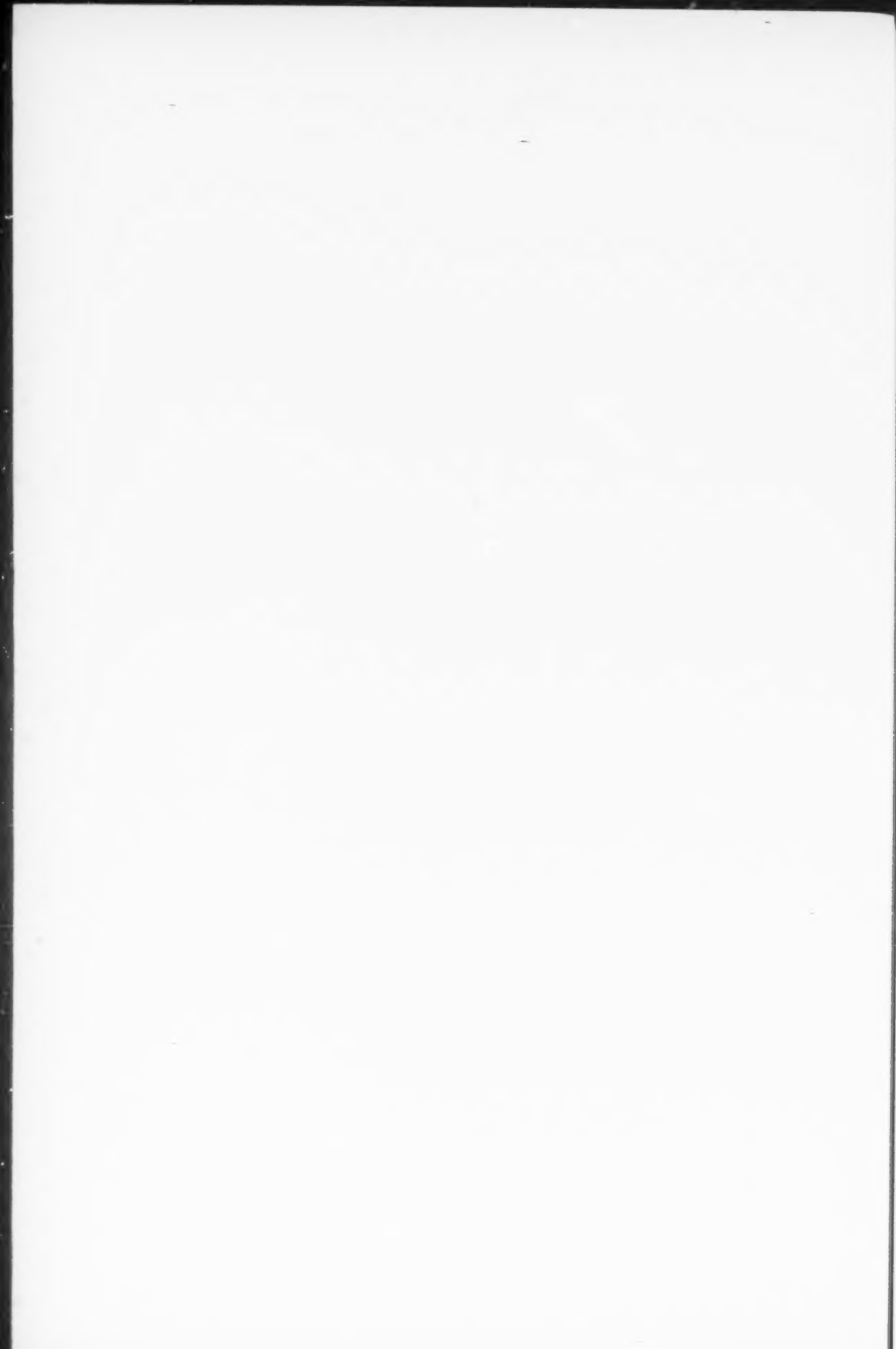
COMMONWEALTH OF PENNSYLVANIA,
HONORABLE JOHN F. WHITE
SECRETARY OF DEPARTMENT OF
PUBLIC WELFARE OF THE
COMMONWEALTH OF PENNSYLVANIA
and ROBERT BROWN
PRESIDENT OF THE BOARD OF
TRUSTEES OF SCRANTON STATE
GENERAL HOSPITAL.
Defendants.

NOTICE OF APPEAL

NOTICE is hereby given that Citizens For
State Hospital, et al., plaintiffs above
named, hereby appeal to the Supreme Court of
Pennsylvania from the "ORDER" dated 4-25-89
and entered on 4-26-89, denying the FIRST
AMENDMENT

"right of the people...to petition
the Government for a redress of
grievances."

That "ORDER" has been entered on the docket

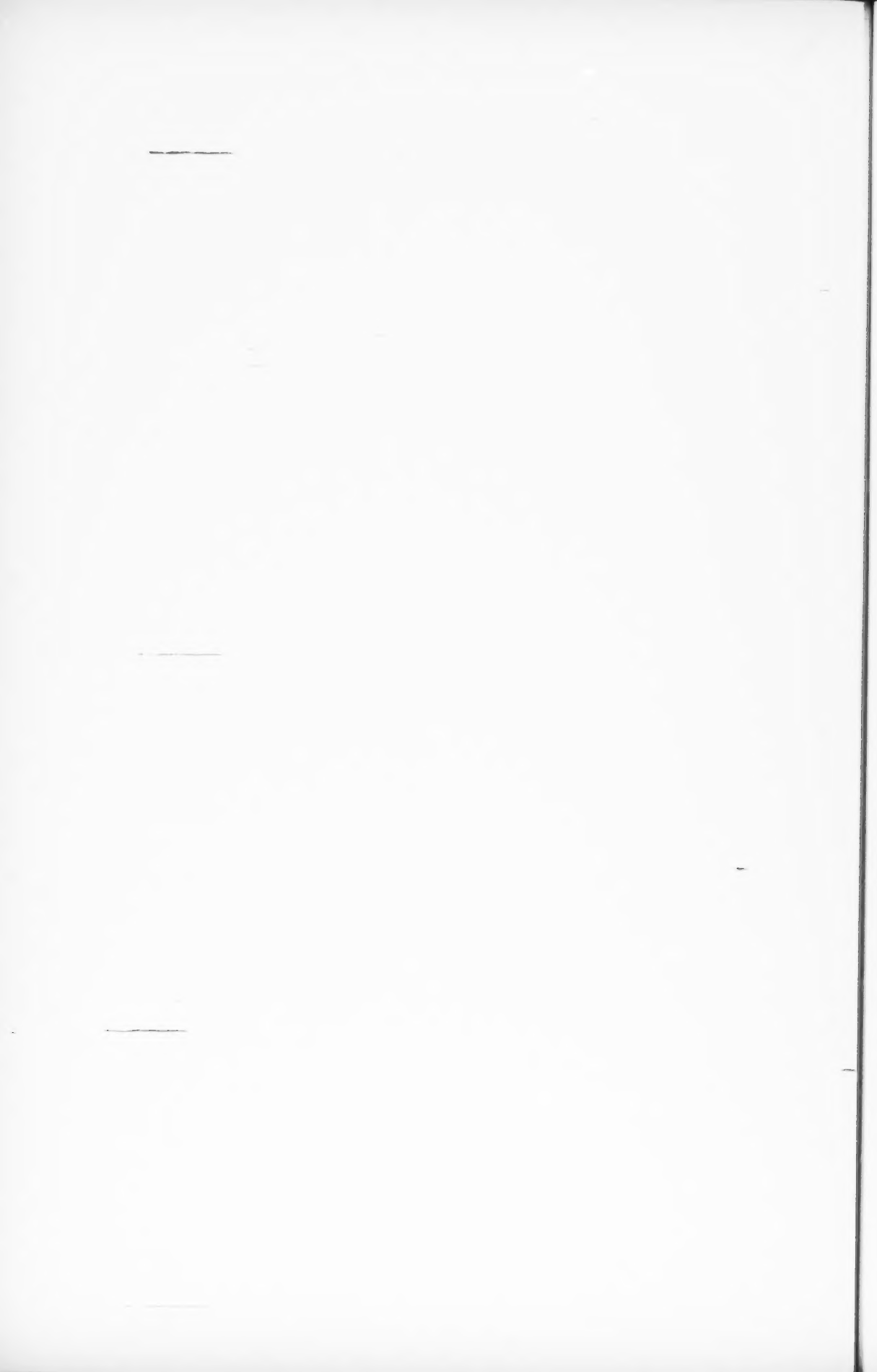


as evidenced by the attached copy of the
docket.

DATE: 5-1-89

S/A.M. MUNCHAK, M.D.
311 N. Irving Ave.
Scranton, Pa. 18501

S/GENE BABALYGA
425 Second St.
Blakely, Pa. 18447



IN THE SUPREME COURT OF PENNSYLVANIA
Middle District

No. 30 M.D. Appeal Docket. 1989

CITIZENS FOR STATE HOSPITAL,
Dr. Alexander M. Munchak,
Chairman, et al.,
Appellants

v.

COMMONWEALTH OF PENNSYLVANIA
HONORABLE JOHN F. WHITE,
Secretary of Department of
Public Welfare, et al

O R D E R

PER CURIAM:

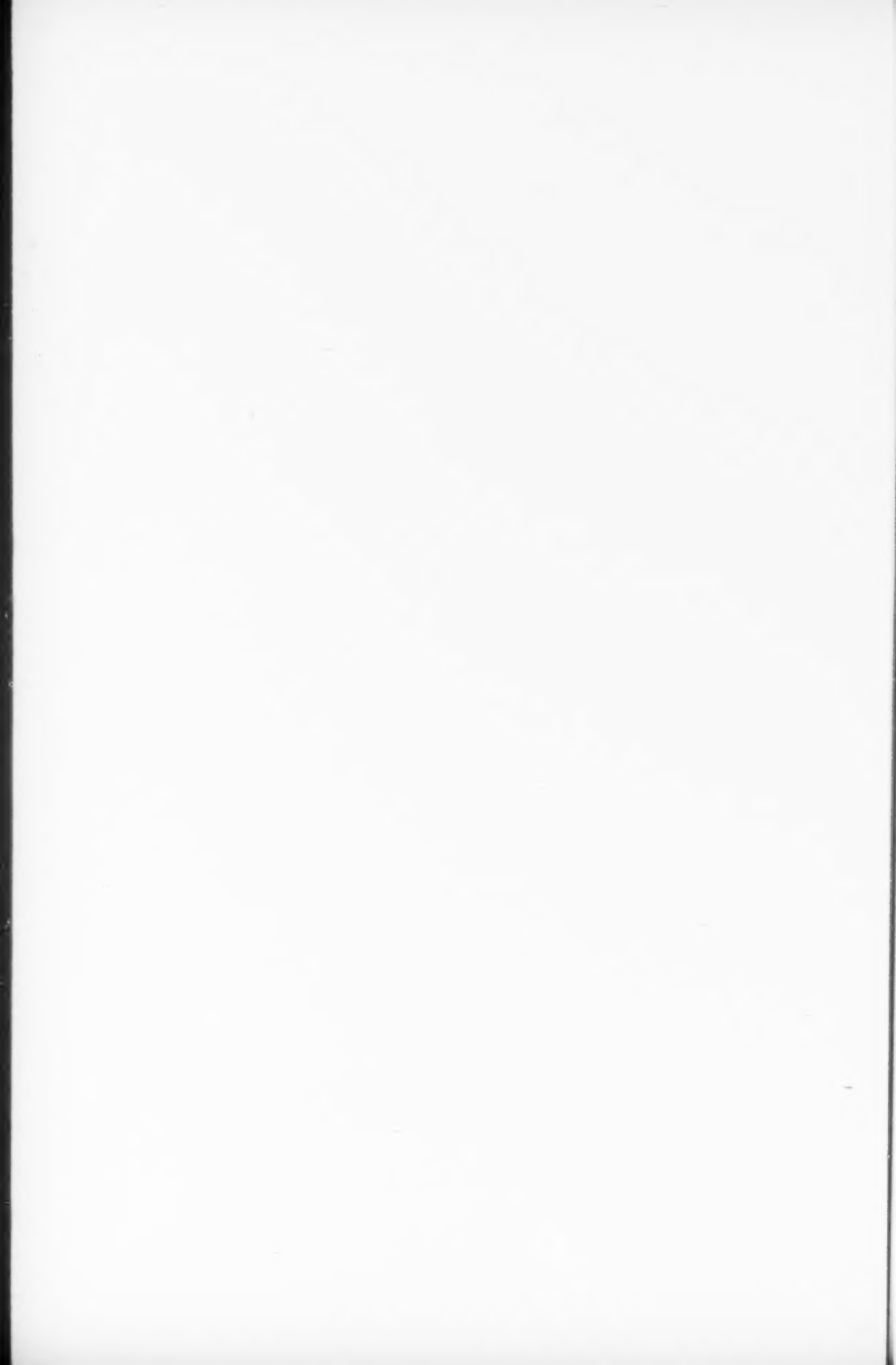
AND NOW, this 29th day of August,
1989, the Motion to Dismiss Appeal is
granted.

TRUE AND CORRECT COPY:
ATTEST: August 30, 1989

Mildred E. Williamson
DEPUTY PROTHONOTARY

Exhibit

N



IN THE SUPREME COURT OF PENNSYLVANIA
Middle District

No. 30 M.D Appeal Docket. 1909

CITIZENS FOR STATE HOSPITAL,
DR. ALEXANDER M. MUNCHAK,
CHAIRMAN, ET AL.,
Appellants

v

COMMONWEALTH OF PENNSYLVANIA
HONORABLE JOHN F. WHITE,
SECRETARY OF DEPARTMENT OF
PUBLIC WELFARE, ET AL.

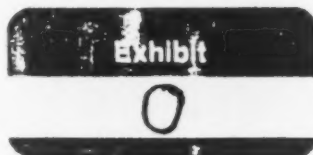
ORDER

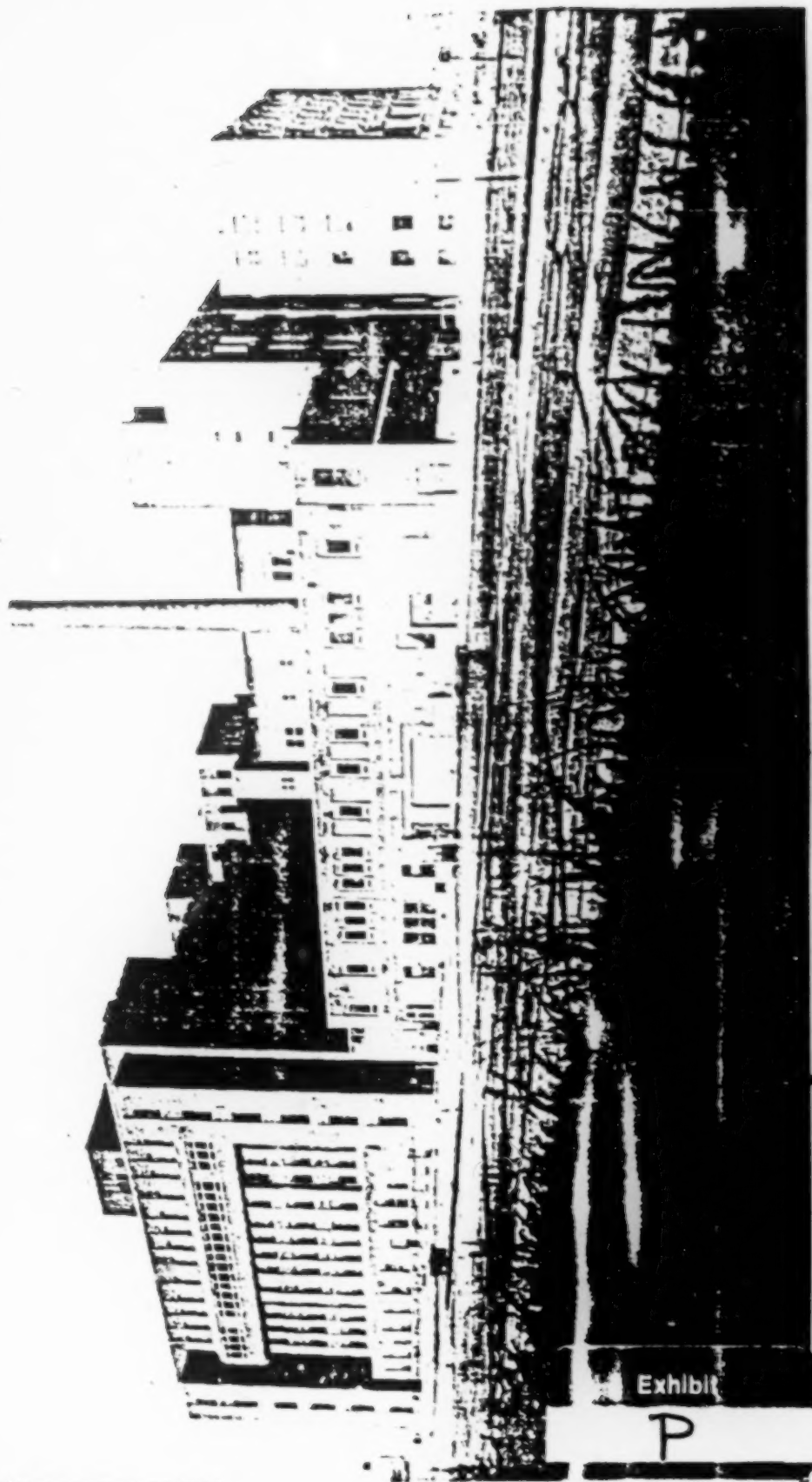
PER CURIAM:

AND NOW, this 10th day of October,
1909, the "Application for Reargument"
is denied.

TRUE COPY FROM RECORD
ATTEST: OCTOBER 11, 1909

Milcred E. Williamson
DEPUTY PROTHONOTARY





Exhibit

P

The former Scranton State General Hospital at Mulberry Street and Franklin Avenue may be slated for demolition to make way for a regional veterans' home, but this photograph is a portrait of the structure's future demise.

no hint of the building's fate. The building is tentatively set to be razed late this year. The state is currently seeking bids on asbestos removal at the site. (Times Staff Photo by Phillip Butler)